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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 193

DATE: Tuesday, April 17th, 1990

BEFORE: A. KOVEN, Chairman

E. MARTEL, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 N. Cumberland Street, Thunder Bay,
Ontario on Tuesday, April 17th, 1990,
commencing at 8:30 a.m.

VOLUME 193

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH)	MINISTRY OF NATURAL
MS. K. MURPHY)	RESOURCES
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. B. HARVIE)	
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MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT
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MR. D. HUNTER)	NISHNAWBE-ASKI NATION
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MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
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MR. R. COTTON	BOISE CASCADE OF CANADA
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MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION

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MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
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MR. M. COATES	ONTARIO FORESTRY
	ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON
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APPEARANCES: (Cont'd)

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MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

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1 ---Upon commencing at 8:30 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Mr. Edwards?

5 MR. EDWARDS: Thank you, Madam Chair.

6 Good morning members of the panel. I
7 have a few questions for you related to access. I can
8 advise the Chair that I expect to be about an hour,
9 perhaps a bit more but certainly under my two hour
10 forecast.

11 I don't think there are any other
12 exhibits that you need other than just what you
13 undoubtedly have before you; that is to say, the
14 witness statements.

15 RUDOLPH ZORN,
16 KENT PERRY,
17 CHARLES WRIGHT,
18 JAMES RODERICK GEMMELL,
DONALD R. JOHNSTON,
PETER MITCHELL MURRAY, Resumed

19 CROSS-EXAMINATION BY MR. EDWARDS:

20 Q. Mr. Wright, do you see any difficulty
21 with the Industry, the forest industry adopting the
22 environmental guidelines for access in Mr. Adamson's
23 book and applying it in the future?

24 MR. WRIGHT: A. I believe the Industry
25 will have no problems adopting the guidelines. I

1 believe they have already adopted the guidelines, but I
2 must make a clarification, as long as the guidelines
3 are used as a list of alternatives that are available
4 to the people in the field to be discussed at a
5 planning level.

6 Q. Do you see that as part of the
7 existing guidelines, the process that you have
8 described? You don't see any conflict between what
9 you've just said and the guidelines; do you?

10 A. No, I don't.

11 Q. With respect to the particular case
12 studies - and I will direct this question generally to
13 the panel and perhaps each person who is responsible
14 for a particular area can assist me - with respect to
15 those case studies, were there any problems in that
16 case study area which resulted in damage to the
17 interests of other users of the forest resource?

18 Mr. Zorn, can you answer with respect to
19 your area, sir?

20 MR. ZORN: A. Madam Chair, from what I
21 remember, when the planning for this area started in
22 1972 until finally in 1986 when the live-in actually
23 closed, we had a commuter operation, I do not remember
24 remember at any time --

25 MR. CASSIDY: Excuse me, could you bring

1 your mike closer.

2 MR. ZORN: I do not remember at any time
3 when we had conflict with any other users that are --
4 there are these two lakes with tourist operators or
5 tourist operations.

6 Q. So there were no problems which
7 resulted in any damage to any other users that you can
8 recall from your case study area?

9 A. Not that I'm aware of.

10 Q. Mr. Perry, what's the case with
11 respect to your case study?

12 MR. PERRY: A. I cannot recall any other
13 problems with other users.

14 Q. Mr. Gemmell?

15 MR. GEMMELL: A. I'm not aware of any
16 problems.

17 Q. Mr. Johnston?

18 MR. JOHNSTON: A. Madam Chair, Mr.
19 Edwards, I'm not aware of any problems. That harvest
20 occurred a long time ago, the initial harvest, and on
21 return harvest I really - which occurred -- one
22 occurred in 1982. I can't remember any conflicts we
23 had.

24 Q. No problems which resulted in any
25 damage to other users?

1 A. No, I can't recall.

2 Q. Mr. Murray?

3 MR. MURRAY: A. I wasn't made aware of
4 any problems developing by the G.W. Martin staff.

5 Q. With respect to each of the case
6 study areas, were there any activities which resulted
7 in what you consider to be significant environmental
8 damage in your case study area? Mr. Zorn?

9 MR. ZORN: A. Madam Chair, I'm just
10 trying to think back over the whole 12-year period.
11 There was no exceptional water crossing, there was no
12 exceptional environment interest in the area other
13 other than normal logging operations and nothing that
14 was impacted.

15 Q. Mr. Perry?

16 MR. PERRY: A. I cannot recall any
17 significant environmental impacts.

18 Q. Mr. Gemmell?

19 MR. GEMMELL: A. No, I cannot recall any
20 damage, significant damage to the environment.

21 Q. Mr. Johnston?

22 MR. JOHNSTON: A. No, I'm trying to
23 think about it and I just can't recall any that was
24 brought to my attention.

25 Q. And Mr. Murray?

1 MR. MURRAY: A. The same comment, I
2 wasn't made aware of any problems by G.W. Martin staff.

3 Q. Were the activities on these case
4 studies all undertaken prior to the creation of the
5 access guidelines, the riparian guidelines and tourism
6 guidelines? Mr. Zorn?

7 MR. ZORN: A. Madam Chair, all the road
8 construction activities were certainly undertaken
9 before the guidelines for access roads and water
10 crossings came in.

11 I'm not aware when the tourism guidelines
12 came in but, as I said, the two tourist operators
13 that's in the area, I was personally present and we
14 talked to one and I'm not aware there was anything --
15 any complaints or any other problems.

16 Q. I am advised that the tourism
17 guidelines came in in 1988, so I think -- sorry.

18 A. If it's 1988 it would be after we had
19 access to the area.

20 MR. EDWARDS: I may stand to be corrected
21 on that, Madam Chair, but we believe it's 1988.

22 Q. Mr. Perry, were the activities which
23 you have described in this case study undertaken prior
24 to the implementation of the three guidelines?

25 MR. PERRY: A. Yes, I believe they were.

1 Q. Mr. Gemmell?

2 MR. GEMMELL: A. Yes, they were. They
3 took place before --

4 Q. I'm sorry?

5 A. They did take place, the activities
6 took place before the guidelines were in place, yes.

7 Q. Mr. Johnston?

8 MR. JOHNSTON: A. Yes, ours took place
9 before the guideline were in place. I don't believe
10 there any tourist outfitters in the area of the case
11 study.

12 Q. And Mr. Murray?

13 MR. MURRAY: A. The activities took
14 place in 1986 so they basically were before the
15 implementation of the guidelines. I was on an advisory
16 committee with the tourism guideline in the North Bay
17 location. I was aware that such a publication was
18 coming.

19 Q. It would appear that the guidelines
20 were not used because obviously they didn't exist and
21 we have evidence from all of you that there was no
22 problems for other -- or damage to other users or
23 significant environmental impacts.

24 Mr. Zorn, are you -- the example which
25 you have chosen or which you have testified about, is

1 that an example of where the system worked well in your
2 estimation or it is an example where the system worked
3 poorly?

4 MR. ZORN: A. I think the whole planning
5 process to this area -- as I mentioned, there was other
6 interests in the area, we were made aware by the
7 Ministry of Natural Resources about tourist operators,
8 this is off our impasses, so to say.

9 The ones that were within the area, as
10 I've said before, personally I was present when we
11 talked to the tourist operators. As a matter of fact,
12 we rented a boat motor from them to go to some camp
13 side location, road location and there was no
14 differences of opinion or that they felt threatened by
15 any of our activities.

16 The only stipulation we had was no future
17 access or futher access to Basket Lake where the
18 tourist operator was concerned or Keikewabik Lake.

19 Q. Yes, sir, but the question relates to
20 whether this is a good example or a bad example. Did
21 the system work in this case which you have testified
22 about?

23 A. I would say since it was before
24 tourism guidelines and water crossing guidelines came
25 our example was an example actually of how it would

1 work today.

2 Q. So did you choose it because it was a
3 good example?

4 A. It was a good example, yes.

5 Q. Mr. Perry, did you choose a good
6 example or a bad example to testify about in your
7 evidence here.

8 MR. PERRY: A. I believe it was a good
9 example overall, yes.

10 Q. This was an example of where the
11 system worked well in that fact situation?

12 A. Yes, I believe so.

13 Q. Mr. Gemmell, was your example chosen
14 because it was an example of good work or bad work?

15 MR. GEMMELL: A. It was an example of
16 typical work which was good.

17 Q. I see. So your evidence would be
18 that this was a typical example?

19 A. Yes, sir.

20 Q. Just simply average, it was not
21 better than average or worse than average?

22 A. I said it was typical but good.

23 Q. Typical but good. Is it your sworn
24 evidence then that the typical example is a good
25 example?

1 A. In our case the example is a good
2 example.

3 Q. I see. Mr. Johnston, did you choose
4 this example because it was an example where the system
5 worked or because it was an example where the system
6 didn't work?

7 MR. JOHNSTON: A. I think this -- if you
8 are referring to the case study area, it was chosen
9 because it represents the type of ground that we work
10 in in the Spruce River Forest. And if you're asking if
11 it is a good example of, say, road location in the
12 area, I would say yes because that is evident in the
13 fact that we are now planning to return for the fourth
14 harvest using the same road system that was there.

15 Q. Mr. Murray, can I presume that you
16 chose your example because it was an example of good
17 forestry?

18 MR. MURRAY: A. The case study area was
19 chosen by G.W. Martin because it met the criteria of
20 being an average sample for the Great Lakes/St.
21 Lawrence tolerant hardwood/maple working group and
22 knowing the area very well I would say, as Mr. Gemmell
23 has said, an average typical example of a tolerant
24 hardwood management working group access.

25 Q. Did anybody choose a bad example?

1 MR. WRIGHT: A. Mr. Edwards, the
2 examples were chosen to show a range of activities that
3 take place in certain working groups in the province.
4 They were not chosen for specific reasons, they were
5 chosen to show a range of activities and the results of
6 these activities and in some cases they turned out to
7 be good, in some cases they turned out to be bad within
8 these ranges.

9 Q. So would it be your evidence, Mr.
10 Wright, that the users conflicts in these five examples
11 were typical of the area of the undertaking?

12 A. They could be. It's very hard to
13 speak to that, but they weren't chosen because they
14 were a good example of these conflicts.

15 Q. Would it be your evidence that the
16 soil types were simply average for the management
17 units?

18 A. I cannot give evidence on that.

19 Q. Mr. Zorn, specifically referring to
20 that Basket Lake camp, my recollection of your evidence
21 was that a reserve was left before the existence of any
22 guidelines. Do you recall stating something to that
23 effect?

24 MR. ZORN: A. I do, yes.

25 Q. Did you thus leave the reserve

1 voluntarily?

2 A. That's correct.

3 Q. Have you ever heard of something
4 called the donut?

5 A. Yes, I heard of the donut.

6 Q. Was the donut in effect at that time,
7 sir?

8 A. I do not think so.

9 Q. So the leaving of this reserve was an
10 entirely voluntary action on the company's part?

11 A. Let me clarify that, Mr. Edwards,
12 Madam Chair. The area where the camp site -- the camp
13 side location, the timber around the camp site location
14 was mainly jack pine with spruce understory below
15 rotation age, about 60 years old, and it was chosen
16 because smaller trees are still growing healthy,
17 they are less susceptible to being blown over by wind
18 storms and we have buildings in there, brand new, we
19 did not want many trees to fall on our buildings.

20 So this is why -- this is one reason also
21 why there was a large reserve left around the lake, Mr.
22 Edwards.

23 Q. That is certainly a common sense
24 practice, sir. And that the leaving of the reserve was
25 part of the good practice that you testified about?

1 A. That's correct.

2 Q. In the course of your evidence, sir,
3 you described how the forester from time to time will
4 go through flagging the location of a road?

5 A. That's correct.

6 Q. And I will ask you a question which
7 relates somewhat to the term and condition 5.1(c) of
8 NOTOA, posed by NOTOA and it is quite a short thing.
9 Mr. Zorn, if you don't have it I will read it to you.

10 Do you have it before you, sir?

11 A. No, I do not.

12 Q. If I could just read it into the
13 record.

14 MR. CASSIDY: I think the witnesses have
15 a copy.

16 MR. EDWARDS: I will read it into the
17 record and then I will provide the witness with a copy,
18 Madam Chair, if he requires it to answer the question.

19 Q. As it reads or as it is proposed,
20 5.1(c) suggest that:

21 "At the annual work schedule planning
22 level, tertiary road construction shall
23 take place only after notification the
24 tourism representative on the timber
25 management planning team and other

1 potentially effected local tourist
2 operations."

3 Now, sir, with respect to the location of
4 tertiary roads, do you see any difficulty prior to the
5 construction -- prior to the flagging of the location
6 of a tertiary road with giving some advanced notice to
7 other potentially impacted users of the forest?

8 MR. ZORN: A. Mr. Edwards, is it
9 flagging or is it construction?

10 Q. I am thinking of flagging right now,
11 sir.

12 A. Madam Chair, as Mr. Roll said in his
13 overview and then again myself in the case study, I
14 indicated that the actual cutting is not known when it
15 that takes place in the tertiary roads.

16 Various companies, our company
17 specifically, we have to produce product for the
18 newsprint machine, we have to produce product for the
19 stud machine and also -- and again of course with the
20 kraft mill and sometimes spruce is required, sometimes
21 jack pine is required and at what time that it can be
22 hauled.

23 The supervisor that does locate the
24 tertiary roads, in our instance, may not know in
25 January if that area is going to be logged in September

1 or June and the difference would be the roads would be
2 indicated higher -- on higher ground or on lower
3 ground, if a winter haul takes place or a summer haul
4 takes place.

5 So to put it that far in advance, a
6 tertiary road, you cannot locate it beforehand. I
7 agree with you that to some degree an AOC is an
8 exception, it's not at any risk, but still I would say
9 once it is known when it will be logged and that
10 flagging takes place. If it's really a massive impact
11 on a particular operator, personally I would talk to
12 him.

13 Q. So do you see any problem, sir, in
14 the appropriate location with imposing an obligation on
15 the operator; that is to say, on the forest industry,
16 to notify other potentially impacted users about the
17 flag so that they can come out and observe it
18 themselves if they elect to do so?

19 A. After it is done, I have no problem
20 with it. When it is done then we know what time of the
21 year we are going to be operating on it.

22 Q. But when it is about to be done,
23 surely you would have at least 24 hour's notice of the
24 fact that you are going to have somebody out there
25 flagging?

1 A. That's very difficult to answer, Mr.
2 Edwards. I think that would put quite a strain on the
3 Industry. I would rely on the group relationship that
4 we do have with operators and other impacted people.

5 Q. I see. Thank you, sir.

6 MR. WRIGHT: A. Mr. Edwards, may I help
7 in that answer?

8 Q. Certainly.

9 A. I believe that the planning process
10 that we have can address that. It is possible that
11 that could be one of the stipulations put on the
12 tertiary roads in a minor amount of areas of concern.
13 It could be --

14 Q. As a term and condition you would
15 agree with that?

16 A. For a term and condition I don't
17 think we could agree with that, but we do have a
18 process in our planning process which states that
19 tertiary roads can be addressed within the planning
20 process and that could be something negotiated by the
21 planning team.

22 Q. Could that type of term be included
23 in an annual work schedule when appropriate?

24 A. It would have to be -- that would be
25 settled by the planning team, whether the planning team

1 or the local citizens committee agreed that that was an
2 appropriate measure to take in that instance.

3 Q. I see. If I could move on to another
4 area, our term and condition 5(2) reads as follows:

5 "As part of the supplementary
6 documentation in any timber management
7 plan relating to a forest management
8 unit or a company unit, all expenditures
9 on access road construction, maintenance
10 or a abandonment by the companies shall
11 be made available to the MNR and become
12 part of the public record in the timber
13 management plan documentation."

14 This is NOTOA's draft terms and
15 conditions 5(2). And this raises an issue which, of
16 course, Mr. Cassidy raised during your
17 evidence-in-chief, panel. Perhaps it was raised in
18 response to certain things that were said by Mr. Hanna.

19 And your response to the interrogatory
20 which was filed showed an impressive number of dollars
21 being spent on roads which are deemed under the Public
22 Lands Act to be public roads.

23 With respect to roads that are
24 subsidized, how is that subsidy paid? Mr. Wright, can
25 you describe for me what takes place?

1 MR. WRIGHT: A. Yes, I can and I can
2 only speak for my company. I have no idea what goes on
3 with the other people.

4 At the annual work schedule stage, we put
5 in a map with secondary and primary roads, corridors
6 labeled on the FRI maps. We then construct the roads
7 according to specific geometric design that is laid out
8 in our Schedule E's in our groundrules and this varies
9 between secondary and primary.

10 After we are finished construction or
11 part of construction, be it a mile or two miles, the
12 Ministry comes in, a Ministry technician comes in
13 measures the road, checks the standard, present at this
14 inspection is a Ministry technician and a forest
15 company representative. The Ministry technician
16 measures the length of road, checks the various
17 standards that are -- geometric standards that are
18 listed in the schedule E, then fills out a report
19 recommending payment or non-payment depending on
20 whether the conditions have been met.

21 He takes his report, gives a copy of that
22 report to the company and if he recommends payment the
23 company then invoices the district Crown representative
24 for the appropriate amount of dollars, funding dollars
25 from the Ministry and after that the money comes in

1 by -- I really don't know. We sent the invoice into
2 the district office.

3 Q. Is it paid on a per kilometre basis?

4 A. In my particular area, yes.

5 Q. Is that the experience of the other
6 panel members, that is it is paid on a per kilometre
7 basis?

8 MR. JOHNSTON: A. Per kilometre based or
9 portions of a kilometre.

10 Q. I see. Does anybody have any other
11 method, different method of payment?

12 MR. MURRAY: A. Mr. Edwards, in the area
13 of G.W. Martin, there is no subsidization; in other
14 words, assistance for the road construction programs on
15 the Crown management units.

16 Q. I see. The other panel members I
17 think were nodding affirmatively when I asked you --

18 MR. GEMMELL: A. It is paid on a per
19 kilometre basis, but not necessarily all kilometres
20 that are constructed are funded. There is a cap on the
21 amount that is paid so we, in effect, are building a
22 lot more road than the funding is...

23 Q. Is that cap on a management unit
24 basis or does it apply across the district?

25 A. I am only speaking in terms of the

1 Iroquois Falls Forest, it is on that basis that I'm
2 speaking.

3 Q. Mr. Perry, is that your experience?

4 MR. PERRY: A. Yes, I would agree with
5 that, it is very similar.

6 Q. Mr. Zorn, I presume that's the case
7 for you as well, sir?

8 MR. ZORN: A. I believe it is.

9 Q. Now, Mr. Cassidy, noted that your
10 industry participates in a competitive and free market
11 and that it is absolutely vital to maintain the
12 confidentiality of road costs.

13 On the assumption that you agree with
14 your counsel, what are the reasons for that?

15 Mr. Wright?

16 MR. WRIGHT: A. The main reasons for not
17 divulging our road costs is the competitive nature of
18 our business. It would give information to our
19 competitors that are sitting at this table with me,
20 information that I do not wish them to have.

21 Q. You don't trust them, sir?

22 MR. CASSIDY: I object to that question,
23 Madam Chair.

24 MR. WRIGHT: I am paid not to trust them.

25 MR. EDWARDS: Q. Mr. Wright, would you

1 agree that when you construct a road you are
2 constrained by topography?

3 MR. WRIGHT: A. Yes, that is correct.

4 Q. You are constrained by the guidelines
5 which we've talked about which are now in place?

6 A. Yes, that is correct.

7 Q. You are constrained by existing
8 construction techniques?

9 A. Yes, that is correct.

10 Q. You are constrained by the equipment
11 that is available on the market?

12 A. Yes once again.

13 Q. You are constrained by the cost of
14 labour and capital?

15 A. In an indirect way, yes.

16 Q. Are there any unusual technical
17 secrets involved in road construction that haven't been
18 described in this panel or in evidence in this hearing
19 that we don't know about?

20 A. None that I know about.

21 Q. In fact, with respect to new
22 techniques or new technology, as we have seen in the
23 course of this panel, people are pleased to share their
24 development of things like high flotation tires or the
25 use of backhoes instead of bulldozers; is that not

1 correct?

2 A. I believe to a certain extent that
3 information is shared, but I'm sure not completely.

4 Q. Mr. Hanna asked the panel - and I
5 think you specifically, Mr. Wright - about whether
6 there would be problems with aggregated costs or
7 whether the production of aggregate information,
8 somewhat like came in in response to the interrogatory,
9 whether that would impact on your competitive or
10 proprietary right.

11 Now, is there anything else other than
12 what you've told us -- are there any other reasons
13 other than what you've told us as to why you object to
14 the production of the cost information with respect to
15 roads?

16 MR. WRIGHT: A. No, I don't believe so.
17 The competitive nature of our business is the reason.

18 MR. ZORN: A. Mr. Edwards, may I --

19 Q. Certainly, please, Mr. Zorn.

20 A. We had talked about this before.
21 There seems to be a great difference in accounting
22 within the various firms, nobody has the same equipment
23 charge operating. Certainly the supervisory rates are
24 all confidential.

25 We do not know how much overhead is being

1 charged in the various companies through a road
2 project. Some people only work part time for this
3 particular project, and some only 90 per cent of the
4 time, something else is considered.

5 This is why there is such a great variety
6 of costs, and it would not be fair to compare
7 Abitibi-Price to Great Lakes Forest Products for
8 instance, because we do not look at cost detail and it
9 would be misleading for anybody wanting to get
10 interrogatory under this particular system.

11 Q. I am sorry, it would be misleading,
12 what, sir?

13 A. To question us on the costs, how much
14 we're spending.

15 Q. Were there any other reasons other
16 than what Mr. Zorn and Mr. Wright have given for
17 objecting to the production of information, or are
18 those all the reasons?

19 Q. Mr. Wright, I understand that it may
20 be the case that essentially the entire area of the
21 undertaking will be accessed within 20 to 40 years.
22 Would that be in accordance with your belief, sir?

23 MR. WRIGHT: A. I really have no idea if
24 that would take place. It would certainly be more than
25 today, but whether it would be entirely accessed I

1 cannot comment on that.

2 Q. Now, I believe sir in your evidence
3 that you indicated that it was very difficult to, I
4 think you said impossible, to forecast beyond the
5 20-year time horizon. Did you testify to that effect?

6 A. I don't think impossible was what I
7 said. I think the accuracy diminishes around the
8 20-year time frame and anything above 20 years the
9 accuracy just tails off dramatically.

10 Q. So beyond 20 years it's possible that
11 it gets less predictable. Was that your evidence?

12 A. Yeah. My evidence was that even at
13 the 20 year it is very hard to do and beyond 20 it
14 becomes extremely difficult.

15 Q. Is there any objection or do you have
16 objection to efforts to paint the larger access picture
17 beyond 20 years?

18 A. Like I stated in my evidence, I do
19 have an objection to it, being the fact that these
20 predictions I in no way can guarantee accuracy and I do
21 not wish to document myself as saying this is what I am
22 going to do if I cannot get close to an accurate
23 description of where I am going.

24 Q. Sir, is it not true that the Industry
25 forecasts on much longer periods of time; that is to

1 say, on rotation ages, that the Industry does that on a
2 regular basis. Is not the whole regeneration program
3 based on that?

4 A. Yes, that is correct.

5 Q. And when one is converting from
6 balsam or white spruce or poplar to jack pine or spruce
7 to create the managed forest of the future, one is
8 planning and presuming that one knows what the market
9 will be 80 to 100 years from now; is that correct?

10 A. You are assuming you have a mill to
11 feed and you must feed it with a certain species, yes.

12 Q. Mr. Johnston gave some evidence which
13 you may recall about the changing market in his unit or
14 his case study.

15 My notes indicate that he talked about a
16 cedar harvest for specialty products, and then a birch
17 harvest I believe for hockey sticks, aspen for veneer,
18 jack pine or sawlogs, and that a balsam harvest is
19 planned. Does that correctly summarize what you said,
20 Mr. Johnston?

21 MR. JOHNSTON: A. Yes, it does.

22 Q. So the Industry does presume to have
23 some knowledge of what the market will be as well in 80
24 to 100 years; does it, Mr. Wright?

25 MR. WRIGHT: A. We have some limited

1 knowledge, yes.

2 Q. Would there be any reason, sir, that
3 you couldn't make your best efforts in the access big
4 picture in the same fashion that you make your best
5 efforts in the market big picture for 40 or 60 or 80
6 years down the road?

7 A. I believe the main difference would
8 be that if the Industry miscalculates on a species or
9 an amount of wood, I believe predictions are much more
10 necessary in this situation for the Ministry on wood
11 supply.

12 I believe that a miscalculation on roads,
13 I believe the Industry could get into a lot of trouble
14 by miscalculating where these roads could go and they
15 would be forced to -- our main worry is that we will
16 have a documented process that, you know, we don't --
17 we just don't want to get stuck to a main road system
18 80 years down the road. I don't know if we will be
19 producing timber 80 years down the road.

20 While it's true what you say, we are
21 predicting for wood supply, but we are predicting on a
22 tenuous basis. I believe the consequences for Industry
23 is that they must predict wood supply, it's what makes
24 them go. I don't think that -- predicting roads, I
25 don't think they want to do that.

1 Q. Sir, is it a fair summary of your
2 evidence then that a miscalculation on roads would be
3 of more impact on the forest industry than a
4 miscalculation on regeneration or timber markets?

5 A. No, that's not true.

6 Q. I will move on to another area,
7 please. At page 24 of the Panel 5 statement of
8 evidence there's a document referring to mitigation
9 impacts. And, Mr. --

10 MS. BLASTORAH: What page?

11 MR. EDWARDS: Page 24.

12 Q. Mr. Wright, I believe you are
13 responsible for that area; are you?

14 MR. WRIGHT: A. Yes, that's correct.

15 Q. I don't believe I saw anything in
16 that part of your witness statement dealing with what
17 should happen if there are other users who are impacted
18 when rules or prescriptions are broken. Is there
19 anything in the witness statement about that, sir?

20 MR. CASSIDY: Well, I can answer that,
21 that that is a matter that Mr. Edwards should take up
22 in Panel 10 with the planning panel and he's allowed to
23 canvass that at large. We take the position that that
24 is a planning matter, how you comply, how you monitor,
25 and I have made that clear from the outset that

1 planning issues can be dealt with with the planning
2 panel.

3 This panel refers to the use of
4 guidelines because that is what this panel believes
5 that by using these guidelines in a particular fashion
6 will accommodate other values, and the planning process
7 at large will deal with other values as well.

8 Mr. Edwards is free to discuss that with
9 the other panel.

10 MR. EDWARDS: Thank you. I appreciate
11 Mr. Cassidy's position on that and I will raise it with
12 Panel 10. I just thought, given that it was in the
13 document, Madam Chair, it should be raised at this time
14 although he acknowledges that it's appropriately raised
15 with Panel 10. It saves us all 10 minutes.

16 MR. CASSIDY: It all adds up.

17 MR. EDWARDS: Q. One of the general
18 issues that has I think gone through this entire case,
19 members of the panel, is the right of members of the
20 public; that is to say, not representatives of the
21 forest industry, not MNR people, right of those persons
22 to have full access to the information which is used in
23 reaching the planning decisions, whether that decision
24 is made by a planning team or with a planning advisory
25 committee or a plan author or however it's done.

1 Now, Mr. Wright, perhaps you can assist
2 me on this, sir. Do you see any problem with members
3 of the public or stakeholders as members of the public
4 having full access to the information which goes into
5 that decision or into the number of decisions which are
6 made during road access planning?

7 MR. WRIGHT: A. The process design is a
8 public planning process and I have no problem with
9 that.

10 Q. Now, I just have a few questions
11 relating to two of the case studies. Mr. Johnston, I
12 am going to ask you a few questions, sir, about the
13 case study involving yourself.

14 And before I do that I will just note how
15 pleased I was, sir, to see that your connection with
16 the Northern Ontario Tourist Outfitters is regarded by
17 your client -- or by your employer as a professional
18 association. I noticed in the curriculum vitae that
19 NOTOA is listed as a professional organization.

20 MR. EDWARDS: So, Madam Chair, I am
21 pleased to see that my friend Mr. Cassidy will
22 immediately defer to the expertise of any witnesses
23 which I intend to call.

24 MR. CASSIDY: Well, I don't intend to do
25 that, subject to having seen their resumes, Madam

1 Chair, and if pressed I will state why that is in
2 there. But I don't think Mr. Edwards wants to hear
3 why.

4 MR. EDWARDS: No, thank you.

5 Q. Mr. Johnston, at page 2 of the
6 witness statement the site which is your case study is
7 described is relatively productive soils. Is it not in
8 fact an area of fine, deep, rich soil and somewhat
9 atypical of the limit?

10 MR. JOHNSTON: A. Yes, it is.

11 Q. And the major competition problem is
12 not so much from aspen as from grass and raspberries?
13 I believe that is set out at page 4 and page 35 of the
14 witness statement if you care to look at it.

15 A. Yes, it is, if it is left untreated
16 before we get a chance before we get a chance to plant
17 it.

18 Q. If it's left untreated?

19 A. Til we get a chance to plant it. If
20 it is left alone it will grow into raspberries and
21 brush.

22 Q. Thank you.

23 MS. BLASTORAH: Madame Chair, perhaps if
24 Mr. Johnston could just move his microphone a little
25 closer to him that would help. We are having a little

1 difficulty hearing him at the back as well.

2 MR. JOHNSTON: I am sorry.

3 MR. EDWARDS: Q. Mr. Johnston, it would
4 seem that there were a number of harvests in this area
5 as early as 1954 at page 20 of the witness statement,
6 and it would appear that no site preparation was done
7 until 1982, notwithstanding the fact that there were
8 nearly three harvests up to and including 1982.

9 Is there any reason that it took so long
10 to site prepare the site?

11 MR. JOHNSTON: A. At that time, Mr.
12 Edwards, the company was responsible for the harvest
13 and the MNR was responsible for all regeneration,
14 regens.

15 Q. And at page 20 --

16 MR. EDWARDS: Sorry, Madam Chair, if I
17 could just have a moment to locate the reference.

18 Q. Yes, it is at page 20. Do you have
19 that, under the harvesting section on page 20, Mr.
20 Johnston. Do you have that available, sir?

21 MR. JOHNSTON: A. Yes, I do.

22 Q. The final sentence in the first
23 paragraph there.

24 "Details in possession of Abitibi-Price
25 Inc. regarding the 1971-75 and 1982

1 harvests are limited to area depletions
2 as harvesting was conducted by a third
3 party operator who had no direct
4 reporting obligations to Abitibi-Price."

5 Were there any obligations to report to
6 Abitibi-Price with respect to roads at that time as
7 well? It says it's with respect to harvest, is the
8 reference here.

9 A. I believe the third party operator at
10 that time used the existing road network that was built
11 earlier.

12 Q. Would you know through whom, if
13 anybody, the third party operator had to report at that
14 time?

15 MR. CASSIDY: Are you talking about the
16 harvest?

17 MR. EDWARDS: Q. Yes, with respect to
18 the harvest, sir.

19 MR. JOHNSTON: A. Well, the third party
20 operator was given permission to harvest the area
21 through an Order-in-Council and any reporting he would
22 have to do would be to the Ministry of Natural
23 Resources.

24 Q. Do you know if any effort was made to
25 get information from the Ministry of Natural Resources

1 with respect to the details of the 71-75 and '82
2 harvest for the purposes of preparing this document?

3 A. I can't answer that, Mr. Edwards, I
4 wasn't part of that portion in preparing this document.

5 Q. I see. Do you recall who actually
6 did prepare that, was it Mr. Squires?

7 A. Mr. Squires, I think.

8 Q. Right. And he will be testifying in
9 subsequent panels I believe?

10 A. Yes, he will.

11 Q. Would you agree, Mr. Johnston, that
12 in the area near the case study which was chosen there
13 are relatively few user conflicts compared with some
14 other areas even in the management unit?

15 A. That is true throughout the entire
16 Spruce River Forest we have few outfitters there. We
17 have cottagers, we have trappers in the area of the
18 case study. I believe the only user that may have
19 concerns would be trappers.

20 Q. Would you agree there are some user
21 conflicts up towards the Kearns and Stonehouse Lake
22 areas?

23 A. There are outfitters in that area.

24 Q. Tourist outfitters in that area?

25 A. Yes, sir.

1 Q. That is away from the area of the
2 case study?

3 A. Yes, it's the other side of the
4 limits.

5 Q. Now, there has been some reference
6 throughout the material about the necessity to access
7 mature and overmature timber and I have a question
8 which relates to this management unit on that issue.
9 Do you recall fire 46, Mr. Johnston?

10 A. Yes, I sure do.

11 Q. My understanding is that it burned
12 312,000 acres mostly in this management unit?

13 A. I believe those numbers are correct.
14 I don't have them with me, but I was there.

15 Q. What year was that?

16 A. I believe it was '81 or '82.

17 Q. Can you recall?

18 A. That's probably correct.

19 Q. And the timber that was burned during
20 fire 46 was largely mature and overmature; is that
21 correct?

22 A. Yes, that's correct. There were some
23 islands of smaller spruce that were left throughout the
24 fire. Mostly mature and overmature jack pine stands
25 were burned.

1 Q. Started by a spark from the MNR's
2 scarification crew?

3 A. I believe that is what happened.

4 Q. And was there a problem in this unit,
5 sir, with the fact that the access roads were not
6 constructed to mature and overmature stands, but that
7 the less mature timber was in fact being harvested when
8 fire 46 broke out?

9 A. It's a little difficult to answer,
10 Mr. Edwards, but to access some stands of overmature
11 timber we have to pass through younger stands and most
12 of this fire burned in an area of standing timber to
13 the north of camp 300 passthrough.

14 We were just beginning to develop that
15 area, in fact we had a main road called the North Road
16 which was to access the northern part of our limits and
17 it was just started and a lot of our fire suppression
18 occurred off of that road, but there was little wood
19 cut off of that road, mostly road right-of-way.

20 Q. But ultimately what happened was that
21 you were forced into the Kerns and Stonehouse area
22 earlier than you were expected to be as a result of
23 fire 46?

24 A. I believe our plan was to harvest
25 that area. I don't have those facts with me, but I

1 believe our plan was to harvest in that area anyway
2 even before the fire occurred.

3 Q. Just one final question on that, Mr.
4 Johnston. The area that was burned was an area of
5 relatively low user conflict as well; was it not?

6 A. It was low user conflict. We had
7 an -- there are outfitters throughout the burn and we
8 had no conflicts with that outfitter at the time.
9 We've had subsequent conversations with the outfitter
10 concerned on another crossing, what we call the Kershaw
11 crossing, and prior to entering that area we contacted
12 that outfitter and we flew with him and together we
13 chose a crossing which would be less damaging to him
14 with less conflict to him. But that is the only
15 connection I had with the outfitters in that area.

16 Q. I see. Which outfitter was that, Mr.
17 Johnston?

18 A. I am sorry, I can't think of his
19 name. He's on Kershaw Lake.

20 Q. On Kershaw Lake?

21 A. Yes.

22 Q. Thank you. With respect to the Eddy
23 forest, the case study is in the Upper Spanish area?

24 MR. PERRY: A. The second one, yes, that
25 is correct.

1 Q. It's noted on Exhibit 1112?

2 A. It's at the very bottom of the Upper
3 Spanish Forest.

4 Q. The Chair had a question during the
5 scoping session, Mr. Perry, about the practice of
6 Industry dealing directly with impacted outfitters or
7 other impacted users as opposed to the -- I suppose as
8 opposed to using MNR as the intermediary.

9 Does your company have a practice of
10 dealing directly with outfitters in the area?

11 A. Yes, I would say they do, although I
12 am not involved with that part of the planning process,
13 but I know we have spoken individually to some
14 outfitters.

15 Q. Is there anybody on the panel who has
16 any objection to doing that, any companies which have
17 any objection to doing that, to your knowledge?

18 MR. EDWARDS: Let the record note the
19 panel is all responding in the negative, they have no
20 objection. Is that a fair statement, Mr. Cassidy?

21 MR. CASSIDY: Yes.

22 MR. JOHNSTON: Excuse me, Mr. Edwards,
23 can I have the opportunity to get the name of that
24 outfitter we talked about on Kershaw Lake, just so that
25 I am correct in...

1 I'm very sorry, the mike was off.

2 I asked Mr. Edwards if I could have the
3 opportunity to get the name of the tourist outfitter
4 that is located on Kershaw Lake so that I am correct in
5 my answer to -- my previous answer to him.

6 MR. EDWARDS: I would appreciate that
7 information. We could perhaps note it for the record
8 at some stage, you could furnish it, Mr. Cassidy, I'm
9 sure.

10 MR. CASSIDY: I can do that. If the
11 witness has agreed to make his best efforts to deal
12 with it, then on the assumption that he can find it,
13 fine, we'd be happy to provide it.

14 I am assuming that since he's volunteered
15 he knows where it is and we will get it to Mr. Edwards
16 as soon as possible.

17 MR. EDWARDS: Q. At page 14 of Tab A,
18 the Canadian Pacific Forest Products study, there is a
19 reference to what are called extraction roads. Mr.
20 Zorn, can you help me out with what that means, please?
21 Page 14 of the case studies, Panel 4.

22 MR. ZORN: A. That's a term in my case
23 study?

24 Q. Yes.

25 A. Extraction roads in this term are

1 tertiary roads.

2 Q. Mr. Zorn, the oldest first policy is
3 noted at page 9 of your case study, second paragraph
4 contains a statement as follows:

5 "It had been decided by forestry
6 personnel that the operation would put
7 priority on accessing and harvesting the
8 oldest and most distant wood first."

9 Is that generally the practice, or is
10 that changing?

11 A. No, it is generally the practice in
12 that particular area. Because of the mature wood being
13 so far back there was some wood at rotation age cut as
14 the road construction expanded in the overmature areas.

15 The overmature timber was harvested and
16 the idea was to eventually coming closer where wood
17 grew in the rotation that the camp would be closed and
18 the harvest would move down to the new operation.

19 Q. So that is still regarded as a good
20 practice, oldest first?

21 A. Oldest first is a good practice, yes.

22 MR. CASSIDY: Well, I think -- I am not
23 sure whether Mr. Edwards was here during MNR's Panel 3
24 and our Panel 3 and 4, but there was extensive evidence
25 about that concept and, in fact, the Board will

1 recall - I am rising for Mr. Edwards' edification -
2 that there is now a procedure in place where that can
3 be departed from, and I am not going to repeat the
4 evidence, but I think it's important for the sake of
5 the record that it be noted that there was extensive
6 evidence on that.

7 And I think in respect of that evidence,
8 there are transcript references for that where you can
9 find that in both our evidence and the Ministry's
10 evidence.

11 MR. EDWARDS: Q. Mr. Zorn, in your case
12 study there is reference to the personnel such as the
13 supervisor and bulldozer operator, et cetera. I am
14 thinking of page 12 of your case study.

15 "...the road right-of-way having been cut
16 by a cut-and-skid crew in June of 1980."

17 Were those personnel employed by Great
18 Lakes Forest Products as it then was?

19 MR. ZORN: A. That is correct.

20 Q. And as such they were, of course,
21 responsible for Great Lakes?

22 A. Correct, Mr. Edwards.

23 Q. Mr. Johnston, at page 25 of your case
24 study you refer to the salvage harvesting being carried
25 out by third-party operators, for the third-party

1 operator by commuters. Who was the third-party
2 operator in that instance, sir?

3 MR. JOHNSTON: A. Are you asking about
4 the second -- what year was that?

5 Q. The 1982 salvage harvest is what I am
6 referring to at pages 24 and 25 of your statement.

7 A. I believe Buchanan Forest Products
8 was in at that time and Fortier.

9 Q. Fortier from Thunder Bay?

10 A. That's correct.

11 MR. EDWARDS: Thank you very much,
12 members of the panel. Those are my questions.

13 Thank you, Madam Chair.

14 MADAM CHAIR: Thank you, Mr. Edwards.

15 MR. MARTEL: Can I ask one question, Mr.
16 Wright, I didn't get it, maybe I missed it.

17 The amount paid by MNR, is it based on a
18 kilometre basis or a percentage of what each company
19 might charge as a cost per kilometre or a flat rate,
20 one of the two?

21 MR. ZORN: Mr. Martel, CP has a flat rate
22 per kilometre, primary road or secondary road, there
23 are two rates.

24 MR. MARTEL: Thank you.

25 MADAM CHAIR: Mr. Murray, was your

1 evidence that in the Great Lakes/St. Lawrence forest
2 there was no government subsidization on forest roads
3 or simply in the case of G.W. Martin?

4 MR. MURRAY: Madam Chair, it was in the
5 case of Martin. I am not familiar whether there is in
6 the...

7 MR. WRIGHT: Mr. Martel, in our case, the
8 Ministry has a maximum ceiling that you can put in by
9 the kilometre. You have a choice of putting in the
10 maximum ceiling or you put in your cost, it could be
11 lower. You don't have to put in that maximum ceiling.
12 We do put in cost.

13 MADAM CHAIR: Ms. Seaborn, are you
14 prepared to proceed?

15 MS. SEABORN: I think Ms. Blastorah will
16 be proceeding before me.

17 MADAM CHAIR: Of course, I'm sorry.

18 MS. BLASTORAH: Madam Chair, can I have
19 just five minutes to relocate my materials up to the
20 podium?

21 MADAM CHAIR: Yes.

22 MR. CASSIDY: If I can just remind the
23 witnesses to -- Ms. Devaul has made a request that the
24 witnesses once again bring the mikes as close as
25 possible when you are speaking.

1 The mikes, I am advised, Madam Chair, are
2 turned up full blast but the reporters are still having
3 some difficulty. So would you please bring them as
4 close as possible when you are speaking.

5 Thank you, Madam Chair.

6 MADAM CHAIR: Excuse me, Mr. Cassidy.
7 Are you prepared to begin with the Panel 6 scoping
8 session tonight?

9 MR. CASSIDY: Madam Chair, I was
10 intending to ask - I wasn't sure how long we would be
11 in finishing this morning - I was intending to ask for
12 a break of some period of time to enable us to further
13 prepare simply for a couple of reasons.

14 One is, I have yet to hear from Mr. Hanna
15 in respect of whether or not he even intends to
16 cross-examine, but another concern is I have not even
17 received a statement of issues in respect of Panel 6
18 and I was hoping to be able to at least try and contact
19 him and get some idea. Speaking for myself, I find a
20 statement of issues very helpful in refining the
21 presentation of the evidence-in-chief and also, Mr.
22 Murray has been on two panels consecutively and is
23 going to be on the next one plus the one after that,
24 and as a result I was going to ask for a short break
25 for his benefit.

1 If necessary or if you wish, we are
2 prepared to proceed today and I was hopeful that we
3 might -- I understand we have to be back at five
4 o'clock in any event for some procedural matters.

5 As I said the other day, I will be one
6 day and one hour. I was thinking perhaps we could do
7 the one hour or maybe even two hours this afternoon and
8 then tomorrow morning. I may be able to finish by noon
9 hour tomorrow if we do that with respect to harvest,
10 depending of course on what Mr. Hanna has to say in
11 terms of his statement of issues or whatever he can
12 tell me.

13 So, therefore, what I was going to
14 request is that we come back somewhere around three
15 o'clock and do a couple of hours and do the scoping --
16 I'm sorry, the procedural matters at five, and then
17 start tomorrow morning.

18 You should also throw into the hopper
19 that I had a conversation with Ms. Swenarchuk and she
20 anticipates that she will be here some time after 1:30.

21 MADAM CHAIR: Today?

22 MR. CASSIDY: Today. So it might be
23 appropriate to -- I would love it if I could have until
24 tomorrow, but if you wish to proceed today we are
25 prepared to proceed somewhere around three o'clock

1 MADAM CHAIR: Thank you, Mr. Cassidy.

2 ---Discussion off the record

3 MADAM CHAIR: Ms. Blastorah, you expect
4 to be how long with your cross-examination?

5 MS. BLASTORAH: I expect I won't be more
6 than about 15 or 20 minutes.

7 MR. MARTEL: How long?

8 MS. BLASTORAH: 15 or 20 minutes, Mr.
9 Martel.

10 MADAM CHAIR: Ms. Seaborn?

11 MS. SEABORN: I will be an hour at the
12 most, perhaps less.

13 MADAM CHAIR: All right. Thank you.

14 MS. SEABORN: I will certainly be
15 finished before lunch assuming I start after the
16 morning break.

17 MS. BLASTORAH: Madam Chair, perhaps we
18 could take the morning break now and adjust the
19 microphones. Apparently they are not working very well
20 or at least take five minutes to adjust these.

21 I am prepared to proceed at this time if
22 you wish to, but I understand the reporters are having
23 some difficulty.

24 MADAM CHAIR: We will take our morning
25 break now and we will be back in 20 minutes.

1 MS. BLASTORAH: thank you.

2 MR. CASSIDY: So ten o'clock, Madam
3 Chair?

4 MADAM CHAIR: Yes.

5 ---Recess taken at 9:45 a.m.

6 ---On resuming at 10:05 a.m.

7 MADAM CHAIR: Thank you. Please be
8 seated.

9 MS. BLASTORAH: I think we have the
10 microphones working now so if there is any feedback we
11 will try and adjust it again, but can everyone hear all
12 right?

13 COURT REPORTER: Yes, thank you.

14 MS. BLASTORAH: I would just ask perhaps
15 the panel members -- actually Mr. Wright all of my
16 questions are going to be directed to you unless you
17 feel someone is more appropriate to answer them, so if
18 you could just speak up and bring your microphone a
19 little closer.

20 MR. WRIGHT: Testing.

21 MS. BLASTORAH: It seems to be working
22 all right.

23 I have very few questions, in fact, for
24 the panel and, Mr. Wright, as I indicated I will put
25 them to you and if you that someone else is more

1 qualified or a better person to answer them, perhaps
2 you could just indicate that.

3 CROSS-EXAMINATION BY MS. BLASTORAH:

4 Q. The first question I have relates to
5 the Panel 4 case studies and you indicated and Panel 4
6 indicated I believe that the information contained in
7 those case studies is historical in nature in the sense
8 that the operations took place some time ago and the
9 objective was to have a full range of operations, so
10 that in fact the access portions of those case studies
11 would have been completed some time ago at this point
12 in time; is that correct?

13 It is basically historical data is my
14 point.

15 MR. WRIGHT: A. I believe that's
16 correct. If any of my panel members can add anything
17 to that I do not know.

18 Q. I think that was the evidence so far.
19 And in fact, I believe you also indicated that the
20 access operations in those case studies were all
21 carried out prior to the implementation of the
22 relatively new environmental guideline for access roads
23 and water crossings?

24 A. That's correct.

25 Q. And can I take it then, to the extent

1 that any aspects of the planning and implementation of
2 the access operations outlined in those case study do
3 not conform with the environmental guideline or other
4 current policies and guidelines, that those operations
5 would be conducted differently today and would be
6 conducted in conformance with the guidelines and
7 policies?

8 A. They could be. The guidelines of
9 today were also good practices yesterday but, yes, they
10 would be performed according to the guidelines today.

11 Q. So to the extent that there were any
12 inconsistencies between those things, current practices
13 would reflect the new requirements?

14 A. That is correct.

15 Q. Thank you. Again, Mr. Wright, in
16 responding to a question put by the Board during
17 scoping, you indicated that Industry representatives do
18 discuss issues directly with other users, particularly
19 I think you spoke of remote tourism operators, and that
20 they have those discussions on a one-to-one basis where
21 that's appropriate and you confirmed that again to Mr.
22 Edwards again this morning; is that correct?

23 A. That is correct.

24 Q. And I assume that you would agree
25 that in such cases the ultimate decision nevertheless

1 rests with the Ministry of Natural Resources in terms
2 of the plan review and approval process?

3 A. Yes, in either process the MNR has
4 the final approval of the plan.

5 Q. And would you also agree that in
6 those one-on-one discussions should the tourism
7 operator, for example, think that it was appropriate
8 that a Ministry representative be present, I take it
9 the companies would have no objection to that taking
10 place, to a Ministry representative being present?

11 A. None whatsoever.

12 Q. Thank you. I would ask you to turn
13 to page 23 of the Panel 5 statement of evidence. The
14 first full paragraph at the top is a paragraph that
15 again the Board raised a question about during the
16 scoping of this panel. That's a one-sentence
17 paragraph, perhaps I will just read it into the record.
18 The statement is made that:

19 "The selective corridors should be one
20 that provides the shortest most
21 economical access to the desired area at
22 an acceptable level of impact on other
23 resource values."

24 In responding to the question put by the
25 Board during scoping, I believe you referred to

1 interrogatory No. 4 from the Ministry of the
2 Environment which essentially indicates that the
3 process of identifying values and determining their
4 importance will be determined in Industry's planning
5 process and I think you referred to the Panel 10
6 evidence that will be following?

7 A. That is correct.

8 Q. And would you agree with me that the
9 current timber management planning process also
10 provides a mechanism for making such determinations as
11 to acceptable levels of impact?

12 A. Yes, I would agree with that.

13 Q. Thank you. Again in relation to the
14 same statement, would you also agree that there may be
15 circumstances where the timber management planning
16 process will result in a decision that no impact is
17 acceptable in that given situation and that in some
18 cases the value must be avoided, not all cases but some
19 cases, obviously?

20 A. I believe that's a possible happening
21 in the planning process.

22 Q. And that would be reflected in the
23 response to interrogatory No. 3 from Nishnawbe-Aski
24 Nation.

25 MS. BLASTORAH: Madam Chairman, it is a

1 one-sentence response, perhaps I will just read it into
2 the record.

3 Q. The question was posed by
4 Nishnawbe-Aski Nation and Windigo Tribal Council.

5 "Does the forest products industry accept
6 that their analysis of alternative
7 corridors could result in the decision
8 not to develop any of the alternative
9 corridors?"

10 And the answer was given:

11 "Yes, the planning and review process as
12 described in OFIA/OLMA Panel 10 could
13 lead to this result."

14 And I assume you agree with that
15 response?

16 MR. WRIGHT: A. Yes, I do.

17 Q. And that would also apply with regard
18 to the current timber management planning process as
19 well?

20 A. That is correct.

21 Q. Thank you. Now, another question was
22 posed by the Board during scoping in relation to
23 supervision by Industry of its road building
24 contractors, as well as inspections by the Ministry of
25 Natural Resources of road construction practises -- or

1 projects rather, and you have already indicated I
2 believe that you are familiar with the environmental
3 guidelines for access roads and water crossings?

4 A. That is correct.

5 Q. And you are aware and I think other
6 members of the panel indicated they are aware of the
7 fact that the Industry helps in the development of
8 those guidelines and supports their implementation?

9 A. Yes, that is correct.

10 Q. And would you agree that those
11 guidelines apply to the construction of all forest
12 access roads for timber management purposes whether
13 they are constructed by the Ministry of Natural
14 Resources, a company or contractors working for a
15 company?

16 A. That is correct.

17 Q. And would you agree with me that the
18 company who is either carrying out the road operations
19 or contractors carrying out the road project is
20 responsible for the construction practises of those
21 contractors or their staff and for any non-compliance
22 with the timber management plan or with the other
23 requirements in the guidelines, that the responsibility
24 ultimately rests with the licensee?

25 A. That is correct.

1 Q. And would you agree that that
2 responsibility is a reason for the licensee to ensure
3 that there is compliance with the timber management
4 plan and with the requirements of the various
5 guidelines and policies?

6 A. Yes, it is.

7 Q. And that would be apart from any area
8 inspections or other inspections by the Ministry in
9 terms of compliance? There would be an incentive for
10 the company to take whatever steps they deem are
11 appropriate to ensure compliance?

12 A. Absolutely.

13 Q. And that would be reflected in your
14 answer to interrogatory No. 2(c) from the Ministry of
15 Natural Resources.

16 MS. BLASTORAH: Again, I will read that
17 in, Madam Chair. I have provided copies of it to the
18 Board on the table there, I provided two copies, one
19 for the exhibit and one for you and also a copy for Mr.
20 Martel, and I have some copies for the other parties
21 who may not have it with them. Perhaps we could file
22 that as the next exhibit.

23 MADAM CHAIR: Exhibit 1119.

24 MS. BLASTORAH: That's Ministry of
25 Natural Resources interrogatory No. 2 on Panel 5.

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MS. BLASTORAH: Q. In that interrogatory, Mr. Wright, a statement on page 25 was referred to and the question was asked:

"What steps does Industry take to ensure that its field staff and contractors comply with the standards set out in the environmental guidelines for access roads and water crossings as a Crown land bridge management policy?"

And part of the answer, part (c)
indicates as follows:

"Regular monitoring is performed during and after all phases of construction and installation of infrastructures as described in guidelines."

Now, in relation to that answer, I take it from your comments just now that the reference there to monitor being performed, that that would be monitoring by Industry staff; is that correct?

MR. WRIGHT: A. That's correct.

Q. Thank you. And would I also be correct that where is any contentious issue about a particular water crossing or it's considered -- has

1 been a particularly contentious issue during planning,
2 that the frequency and nature of inspections both by
3 Ministry of Natural Resources' staff and by the
4 Industry would depend on the site specific conditions,
5 the nature of the site and any contentious issues that
6 had arisen?

7 A. Yes, that is correct.

8 Q. And during his cross-examination, Mr.
9 Hanna asked several members of the panel about minimum
10 qualifications for company staff engaged in locating
11 roads on the ground.

12 Am I correct that regardless of any
13 formal requirements by any of the individual companies
14 with regards to qualifications of its staff, am I
15 correct that the company is nevertheless ultimately
16 responsible for the activities of those staff or
17 contractors and for any non-compliance with the timber
18 management plan including during road locating
19 operations?

20 A. Yes, the company is ultimately
21 responsible.

22 Q. And my last question relates to some
23 of the suggested terms and conditions. It has been
24 suggested in some of the draft terms and conditions
25 that have been put forward to date that the cut pattern

1 in the boreal forest should be more broken up, that
2 there should be more strip cuts, smaller clearcuts and
3 generally more modified operations.

4 Mr. Wright, would you agree that that
5 kind of increase in modified operations would require a
6 more extensive road network and could in fact effect
7 the geometric standard of the roads put in place?

8 A. Yes, strip cutting or block cutting,
9 in my own opinion, would cause at least a 40 per cent
10 increase in the amount of road and the amount of area
11 that would have to be accessed in the same amount of
12 the time.

13 It also would require more maintenance, a
14 slightly better road standard because you are coming
15 back to this area and, therefore, more maintenance,
16 more road cost and a slightly better standard that this
17 road has to be built because of the return pattern you
18 are following now.

19 Q. And just following up on that, Mr.
20 Wright. I take it that what you are saying is that
21 roads put in place would be in place and used over a
22 longer period; in other words, you would have less
23 deterioration or revegetation of roads because it would
24 be contemplated that they would be used again in
25 future?

1 A. Yes, that is correct.

2 Q. Thank you.

3 MS. BLASTORAH: Those are my questions
4 for this panel.

5 MADAM CHAIR: Thank you, Ms. Blastorah.
6 Ms. Seaborn?

7 MS. BLASTORAH: Thank you, Panel.

8 MS. SEABORN: Thank you, Madam Chair.

9 Good morning members of the panel. I
10 would like to begin by filing a few interrogatories.
11 These are questions posed by the Ministry of the
12 Environment, questions 2, 3, 4, 5, and question 3 posed
13 by Forests for Tomorrow. (handed)

14 MADAM CHAIR: Thank you. That will be
15 Exhibit 1120.

16 MS. SEABORN: Thank you.

17 ---EXHIBIT NO. 1120: MOE interrogatory question Nos.
18 2, 3, 4, 5 and FFT interrogatory
question No. 3. (Panel 5)

19 CROSS-EXAMINATION BY MS. SEABORN:

20 Q. Mr. Wright, could you turn to page 22
21 of the witness statement which is Exhibit 1116, and
22 halfway down the full paragraph on page 22 the sentence
23 starts:

24 "The analysis of each alternative
25 corridor should consist of an assessment

1 of its effectiveness in providing
2 access to areas of operations, an
3 assessment of how identified values have
4 been accommodated, an estimate of the
5 construction, wood transportation
6 and applicable maintenance costs and, as
7 discussed in Section 4 of the
8 statement of evidence, the use management
9 strategy."

10 In relation, Mr. Wright, to what I would
11 term the cost factors, you have included in the
12 evidence an estimate of the construction costs, wood
13 transportation costs and applicable maintenance costs;
14 is that correct?

15 MR. WRIGHT: A. That's correct.

16 Q. And these are items that
17 professionals with your sort of experience and indeed
18 the experience of the other members of the panel would
19 address in terms of looking at alternative road
20 corridors?

21 A. That's correct.

22 Q. And am I correct that you provide
23 cost estimates and information in relation to these
24 alternative corridors to the planning team; is that
25 correct?

1 A. That is correct.

2 Q. And is it fair to say that the
3 planning team or, in the case of the Industry proposal,
4 the plan author would rely on your costing estimates
5 for input into the planning process?

6 A. Yes, it is.

7 Q. Thank you. I understand from the
8 evidence last week that all of you except for Mr.
9 Murray have attend Mr. Adamson's course on the use and
10 application of the environmental guidelines for access
11 roads and water crossings; is that correct Mr. Wright?

12 A. Yes, that's correct.

13 Q. And am I correct that it is the
14 Industry's position that potentially adverse
15 environmental impacts of road construction can be
16 minimized through the application of these guidelines?
17 Is that a fair statement?

18 A. Yes. That's one of the ways, yes.

19 Q. And in terms of the topics that are
20 actually covered in the access road guidelines, Mr.
21 Wright, would you agree with me that the main thrust
22 revolves around the construction of roads and the
23 maintenance of roads and water crossings as opposed to
24 abandonment?

25 A. I believe the main thrust was that,

1 but abandonment was referred to in the document.

2 Q. That's right. In fact if you turn to
3 the guidelines beginning at page 24 - and, Madam Chair,
4 this is Exhibit 683 - Section 5.11 deals with road
5 abandonment and we have a couple of pages that address
6 this issue under good practises; is that correct?

7 A. That is correct. I'm not sure if it
8 is readdressed, but that is correct.

9 Q. And that the bulk of -- from my
10 reading of the guidelines, the bulk of the guidelines
11 are directed toward construction practices and
12 maintenance practices with respect to roads and water
13 crossings; is that fair?

14 A. That would be a fair statement.

15 Q. Thank you. And in terms of removal
16 of water crossings, would you agree with me that there
17 is little direction as to actually how a water crossing
18 should be removed?

19 A. No. Besides the mitigating
20 techniques that are discussed in the back of the book,
21 they can be used in the removal, but the actual
22 specifics saying how, no, that is not addressed.

23 Q. That's right. And just to look at a
24 practical example that was dealt with in the
25 evidence-in-chief, Mr. Gemmell, I would like to have a

1 look at one of the slides that you showed. I don't
2 think it's necessary to put it up on the screen if the
3 Board has their pictures with them from Panel 4.

4 And I would like to have a look at slide
5 No. 5.7 which is with the package of slides in relation
6 to Abitibi-Price, the black spruce Clay Belt management
7 unit, Iroquois Falls.

8 MR. MARTEL: Is that D?

9 MS. SEABORN: Yes, case study 4D and it's
10 picture 5.7. It's a log bridge.

11 Q. Do you have that in front of you, Mr.
12 Gemmell.

13 MR. GEMMELL: A. Yes, I do.

14 Q. Thank you.

15 MS. SEABORN: Does the Board have that
16 picture?

17 MADAM CHAIR: Yes, we do.

18 MS. SEABORN: Thank you.

19 Q. Now, Mr. Gemmell, in the event that
20 there were a downstream spawning bed and there were
21 erodible soils, how would you as a field person go
22 about removing this sort of structure?

23 MR. GEMMELL: A. I think we would have
24 to determine when the period of spawning would take
25 place and I think the timing would be other than that

1 period.

2 Q. Okay. And how would you actually --
3 I am just looking for some of the techniques that you
4 would use to actually take that structure out?

5 A. The equipment that we would use?

6 Q. Yes, just briefly.

7 A. Well, we would use whatever was
8 available in terms of crane, skidders, to remove the
9 material and transport it to a dump site.

10 Q. And operationally, do you see any
11 difficulty in removing this sort of a structure?

12 A. The main portion of the bridge, no;
13 the pilings would be rather difficult to deal with.

14 Q. And why is that?

15 A. Because the pilings are placed into
16 the ground with a pile driver so they're well
17 established.

18 Q. They are quite difficult to remove, I
19 understand?

20 A. That's right.

21 Q. Given that the pilings would be
22 difficult to remove, what equipment would you need then
23 to go about taking them out?

24 A. If they had to be removed, I think it
25 would be a very difficult task and would require some

1 cranes.

2 Q. And would it be a costly undertaking?

3 A. Relatively costly, yes.

4 Q. And in terms of removing the pilings,
5 what sort of mitigative measures would you take?

6 A. In terms of removing?

7 Q. Yes.

8 A. What do you mean by that?

9 Q. If there was a concern with a
10 spawning bed, a general concern about water quality and
11 erodible soils on the side of the crossing.

12 A. Maybe the first mitigative decision
13 to be made is whether they had to be removed.

14 Q. And in the sample in 5.2, am I
15 correct that this is an untreated log bridge?

16 A. That particular bridge is, you're
17 correct.

18 Q. And my understanding of the road
19 abandonment guidelines is that in terms of removal of
20 structures under good practices untreated log bridges
21 come into the category of something that should be
22 removed; is that correct?

23 A. Untreated log bridges--

24 Q. That's right.

25 A. --should be removed?

1 Q. Yes.

2 A. I'm not certain, but if you're saying
3 that I will agree to that.

4 MS. BLASTORAH: Madam Chair, just for my
5 reference, could we have the reference in the
6 guidelines for that just so we can follow along?

7 MR. CASSIDY: You are on page 25; is that
8 correct, Ms. Seaborn?

9 MS. SEABORN: That's right, Mr. Cassidy.
10 Page 25 of the left-hand side, removal of structures.
11 It says:

12 "Water crossing structures that have
13 required ongoing maintenance to keeping
14 functioning or which have deteriorated
15 with time and may collapse into a
16 waterway, for example, untreated log
17 bridges should be removed when the road
18 is abandoned."

19 MR. GEMMELL: Yes.

20 MS. SEABORN: Q. Thank you. Just to get
21 back to the mitigative measures, Mr. Gemmell, I just
22 want to be clear. The first thing you said is that you
23 would want to determine whether or not you would want
24 to remove the pilings; is that correct?

25 MR. GEMMELL: A. That's correct.

1 Q. Okay. Assuming you decided you did
2 want to remove them, you said you would need to take in
3 cranes; how would they be removed at that point?

4 A. For pilings, I have to say that I
5 don't have the experience at removing pilings, so I
6 would just have to indicate what possibly might take
7 place and if the cranes were used, you would attach
8 with some sort of crane and lift up, but it would be a
9 very difficult task.

10 Q. Does anyone on the panel have that
11 experience? Mr. Zorn?

12 MR. ZORN: A. Yes, I do have some
13 experience and, as Mr. Gemmell indicated a crane -- or
14 there is almost like a reverse pile-driver in use that
15 has like a shaking effect while at the same time as the
16 pull applied to the timber pile itself, it kind of
17 shakes itself out.

18 But here in Thunder Bay if you have
19 watched a water crossing or the water shoreline renewal
20 here in Thunder Bay, there used to be extended amount
21 of pilings and they were removed normally by underwater
22 demolition, by cutting them off at the bottom of the
23 lake because of the bearing of the structure at the
24 crossing.

25 Q. In terms of forest access water

1 an option?

2 A. Certainly it would be.

3 Q. Okay. Mr. Zorn, sticking with you,
4 could you turn to page 29 of the environmental
5 guidelines.

6 MR. CASSIDY: This is the access panel.

7 MS. SEABORN: Yes, Exhibit 683.

8 Q. You will see the picture at page 29
9 we have a bridge on the top left. Now, with respect to
10 the pictures of the culverts, multiple culverts, arch
11 culverts and a regular culvert, could you tell me for
12 each one of these structures, Mr. Zorn, based on your
13 field experience how you would go about removing these
14 in an environmentally sound manner?

15 MR. ZORN: A. Well, Madam Chair, as the
16 guidelines also indicate - I can't remember right now
17 offhand what page - if these materials are of a
18 permanent structure, treated timber or steel there is
19 no reason to remove them because they will be lasting.

20 The culvert that has been installed in
21 this instance and for other reason has to be removed,
22 one of the techniques employed under the mitigative
23 practices should be a screen below the structure itself
24 downstream to catch debris or possible siltation so
25 nothing further will go down the stream and immediately

1 below the structure. And there would have to be
2 removed with backhoes and very delicately.

3 Q. And would that be the same operation
4 for each of the culverts depicted in the photographs?

5 A. Yes. I don't see much difference
6 being applied in this instance.

7 Q. Okay. Mr. Wright, would you recall
8 from the course offered by Mr. Adamson the extent to
9 which there was discussion of abandonment of water
10 crossings?

11 MR. WRIGHT: A. I can't really recall.
12 It was discussed, but I can't recall. It was quite a
13 while ago.

14 Q. Do any of the panel members recall
15 whether there was a discussion with respect to
16 techniques for abandonment? Mr. Johnston?

17 MR. JOHNSTON: A. We talked about
18 abandonment, yes, as per -- as stated in the document
19 here.

20 Q. And it was then a review of the
21 provisions of the guidelines?

22 A. That's right. He reviewed the
23 guidelines, went through the whole booklet.

24 Q. Mr. Gemmell, was that your
25 recollection of the course?

1 MR. GEMMELL: A. Yes, I think he covered
2 the book and, therefore, would have covered the removal
3 of the structures.

4 Q. Mr. Perry?

5 MR. PERRY: A. Yes, it would be the same
6 instruction also.

7 Q. And Mr. Zorn?

8 MR. ZORN: A. Yes, it was.

9 Q. I am not sure if this was asked last
10 week or not. Were there any course materials provided
11 in relation to this course or was it a review of the
12 guidelines themselves?

13 MR. ZORN: A. If I may answer that for
14 our company. All participants were handed a copy of
15 the crossing guidelines and also a draft copy of the
16 water crossing policy.

17 MR. WRIGHT: A. In our case it was a
18 hand-outs at the door, pick them up at your own will.
19 That was about the same type of thing.

20 Q. And, Mr. Wright, we talked about
21 earlier the extent to which the environmental
22 guidelines address abandonment versus construction
23 practices, and would it be fair to say that the thrust
24 of the course itself was with respect to construction
25 and maintenance of roads and water crossings as opposed

1 to abandonment techniques?

2 A. The course reviewed the guideline
3 book and if the book's thrust was that way, so was the
4 course, yes.

5 Q. Thank you. Now, Mr. Zorn, there
6 clearly are costs associated with the removal of water
7 crossings, the installation of water bars and grading
8 to stable slopes; is that correct?

9 MR. ZORN: A. There would be, yes.

10 Q. And when you are preparing your cost
11 estimates for alternative corridors, would you agree
12 with me that the costs of abandonment should also be
13 factored into the analysis of each corridor?

14 A. Yes, I agree they should be factored.

15 Q. And is it your experience that these
16 costs are calculated and factored in on a routine basis
17 in relation to your company's work?

18 A. They probably are addressed in the
19 land use strategy, but to what extent of actual dollars
20 and cents they are being addressed, I don't know.

21 MR. WRIGHT: A. Ms. Seaborn, if I may.
22 At the planning level the use management strategy will
23 dictate abandonment policy and if that strategy
24 dictates abandonment then I do believe the costs will
25 be factored in; but if it doesn't dictate physical

1 abandonment, I don't believe the factors will be put in
2 there.

3 Q. - Well, I am looking at it going back
4 to the evidence at page 22, Mr. Wright, when you talk
5 about the analysis of each alternative corridor and
6 what it should consist of in terms of costs.

7 And what I am proposing is that as a
8 general theory, given that the costs of abandonment can
9 be -- given that abandonment can be costly, put it that
10 way, that those are costs that when you are analysing
11 the corridor should be something that you gentlemen as
12 field people should be inputting into the planning
13 process. Would you agree with that?

14 A. It should be input if it is necessary
15 to input. In some cases it wouldn't be necessary to
16 input.

17 Q. And if the use management strategy
18 includes abandonment, then you would say that those
19 costs should be factored into the alternative
20 corridors?

21 A. I believe that's correct.

22 Q. Okay. Mr. Johnston, have you had
23 occasion to remove any water crossings since the
24 environmental guidelines have come into force?

25 MR. JOHNSTON: A. Yes, we have.

1 Q. And what example can you give me of
2 that in terms of a field example?

3 A. We removed a small bridge near
4 Laughing Bird Lake and this was done about a year and a
5 half ago, I believe. We removed it in a similar
6 fashion to what Mr. Zorn described. We took a backhoe
7 to the site and pulled it out and disposed of the
8 materials.

9 We left the banks landscaped in a sense
10 so that it would not erode and we left a mound on each
11 side of the indentation so that traffic would be
12 notified that there was something unforeseen up ahead.

13 Q. Would you be able to provide me,
14 through your counsel, with a small map showing the
15 location of that structure -- sorry, the location of
16 the water crossing, the structure has obviously been
17 removed.

18 MR. CASSIDY: I will undertake to
19 investigate whether or not such a map exists and if it
20 does we will undertake to provide it.

21 MS. SEABORN: Thank you.

22 MADAM CHAIR: Mr. Johnston, this was done
23 for reasons of physical abandonment that you wanted to
24 make the road inaccessible.

25 MR. JOHNSTON: Yes, that's right. It was

1 one of the crossings that was identified by the
2 Ministry of Natural Resources as an unreliable
3 crossing, it was starting to decay, and we had to do
4 something about, so we removed it.

5 MADAM CHAIR: Had it been naturally
6 abandoned originally?

7 MR. JOHNSTON: We harvested wood in the
8 area and had moved away from the area, yes.

9 MADAM CHAIR: So it had been naturally
10 abandoned some years before and over time it began to
11 deteriorate, the bridge did?

12 MR. JOHNSTON: Yes, Madam Chair, that is
13 correct.

14 MADAM CHAIR: And so are you responsible
15 for an indefinite period of time for the removal of
16 water crossings after you have abandoned an area?

17 MR. JOHNSTON: Every three years we were
18 responsible to inspect these crossings to see -- to
19 check on their condition and if we find them decaying,
20 then we have to act on it.

21 MADAM CHAIR: So feasibly 20 or 40 years
22 after you have harvested an area you could still be
23 paying the cost of removing a water crossing?

24 MR. JOHNSTON: That could be. We would
25 do this in consultation with the Ministry.

1 MR. WRIGHT: Madam Chair, that would be
2 true unless anyone else has picked up the maintenance
3 of that road. If someone else has picked it up, then
4 they would be responsible.

5 MADAM CHAIR: Ms. Seaborn, could I ask
6 Ms. Blastorah a question.

7 On the various site visits that we have
8 been on we can remember seeing examples of physical
9 abandonment of roads where various measures were taken
10 to prevent access on a road. Did we travel many
11 naturally abandoned roads, or could someone discuss
12 that with perhaps Mr. Kennedy or one of our other
13 guides.

14 MS. BLASTORAH: I think perhaps since I
15 am not familiar with the details of the site visits,
16 not having been present, it would be prudent for me to
17 make inquiries as to the actual routes followed and get
18 back to the Board on that.

19 MADAM CHAIR: All right. Thank you very
20 much.

21 MR. CASSIDY: Madam Chair, if I can just
22 rise in respect of what I think was called Laughing
23 Bird Lake, Mr. Johnston, that you were referring to?

24 MR. JOHNSTON: Yes. It's the creek that
25 runs into or out of Laughing Bird Lake.

1 MR. CASSIDY: I see. I just made an
2 inquiry, Madam Chair, and I just wanted to advise Ms.
3 Seaborn that we are going to be making further
4 inquiries, but there is a possibility that is not on
5 Crown land and would in fact be on land owned by
6 Abitibi-Price and, if that is confirmed, I can advise
7 Ms. Seaborn that subject to receiving further
8 instructions I would not be producing a map of land
9 that is not covered by this undertaking.

10 However, I want to make further inquiries
11 and seek instructions in that regard. It may be that
12 we would produce it in any event, but I have to seek
13 instructions from Abitibi-Price in respect of land that
14 is not covered by this undertaking, but I just wanted
15 to make her aware of that now and we will make further
16 efforts to determine that.

17 MS. SEABORN: I thought Mr. Johnston's
18 evidence earlier was that this removal had come about
19 as a result of some consultation with MNR, which is why
20 I assumed we were talking about Crown land as opposed
21 to private land.

22 MR. JOHNSTON: That is correct.

23 MR. CASSIDY: If I could ask the witness.
24 Are you aware whether or not that is on freehold land
25 or Crown land, Mr. Johnston?

1 MR. JOHNSTON: It's on Crown land, Mr.
2 Cassidy, it's near camp 300.

3 MR. CASSIDY: All right. We will make
4 the necessary inquiries then.

5 MS. SEABORN: Thank you.

6 Q. Mr. Johnston, with respect to that
7 particular water crossing, are you aware as to whether
8 or not there were any other water crossings further
9 down the road that either still exist or may have been
10 removed at the same time?

11 MR. JOHNSTON: A. That was the only one
12 that was identified to us at that time in that area.
13 All the crossings I assume were inspected at that time
14 by the Ministry and that was the one that was
15 identified.

16 Q. Now, in response to a question from
17 Madam Chair where you were discussing naturally
18 abandoned roads, one of the things you mentioned was
19 that you had an obligation to inspect naturally
20 abandoned roads at least once every three years; is
21 that correct?

22 A. Yes, that's right.

23 Q. And is it your understanding that
24 this is an obligation on both company management units
25 and FMA management units?

1 A. It would make sense to do that on
2 company lands also.

3 Q. And there is a requirement in that
4 regard under the mandatory sections of the
5 environmental guidelines; is that correct?

6 A. I would have to refer to that.

7 Q. Sure. At page 11.

8 A. Yes, second paragraph on the
9 right-hand side.

10 Q. Now, in terms of obligations, I
11 understand that it may be a company's responsibility to
12 do this monitoring, but in terms of the cost of removal
13 it doesn't necessarily mean that a company pays for the
14 cost of removal of the water crossing; is that correct?

15 A. I believe that to be true. When we
16 remove a crossing such as this we do it in consultation
17 with the Ministry and at that time we decide on who
18 would bear the cost.

19 Q. And in some cases the Ministry will
20 bear the costs and in other cases the company will bear
21 the costs; is that the position?

22 A. That could be.

23 Q. And in relation to who will bear the
24 costs, is that something that would be set out, Mr.
25 Wright, in the use management strategy?

1 MR. WRIGHT: A. Yes. In the new plans
2 that will be set out in the use management strategy.

3 Q. Mr. Johnston, in relation to the
4 Laughing Bird water crossing, you said that that was
5 the only one identified by MNR.

6 At the same time as providing me with the
7 location of that water crossing, if there are any
8 further water crossings along that same road that have
9 been abandoned, I would appreciate those to be
10 identified as well on the map.

11 MR. JOHNSTON: A. Yes, I will look into
12 that and my counsel will identify it.

13 Q. Mr. Zorn, have you had occasion to
14 remove any water crossings since the introduction of
15 the environmental guidelines in your operating area?

16 MR. ZORN: A. We have improved water
17 crossings that were unsafe and brought them up to
18 standards, but I do not recall since the guidelines are
19 in effect that we have removed any.

20 Q. And I take it even prior to the
21 introduction of the guidelines you would have, in your
22 years of experience, had occasion to remove a water
23 crossing; is that correct or not?

24 A. That is correct.

25 Q. And could you as well provide for me

1 through your counsel an example of a water crossing
2 that you yourself have been the supervisor of in terms
3 of removing?

4 MR. CASSIDY: If I can just get some
5 understanding what you are looking for. You are
6 looking for a map again showing where a water crossing
7 that was abandoned or removed by Mr. Zorn's...

8 MS. SEABORN: That's correct.

9 MR. CASSIDY: Okay. We will make efforts
10 to see if we can come up with that information, and
11 inasmuch as it's historical, sometimes information is
12 kept with the Ministry and the answer may be the
13 Ministry has that information. But we will make
14 efforts to see what Mr. Zorn's company has to provide
15 that, counsel.

16 MS. SEABORN: Thank you.

17 Q. Mr. Zorn, there were some questions
18 this morning in relation to cost by Mr. Edwards. If
19 the crown subsidizes a road, am I correct that the
20 amount of that subsidy has to be made public?

21 MR. ZORN: A. I am not aware of it.

22 Q. You are not aware as to whether or
23 not it has to be made public?

24 A. That's correct.

25 Q. Mr. Wright, are you aware?

1 MR. WRIGHT: A. I believe the amount of
2 subsidy is made public at the annual report stage that
3 is required each -- at the end of each Ministry year.
4 It obligates a company to tell how many kilometres were
5 built and how much money received -- how much funded
6 money is received by the company from the government.

7 Q. And so in the event that a road were
8 a hundred per cent subsidized by the Crown, then the
9 total cost of that road would be known; correct?

10 A. Could you repeat that question?

11 Q. In the event that a road were
12 subsidized by the Crown a hundred per cent - it turned
13 out for whatever reason the company didn't pay anything
14 toward the road - then the total cost of that
15 particular road would be known; is that correct?

16 A. What is known is the amount of
17 kilometres built and the subsidy received, not the
18 percentage of cost the subsidy covered.

19 Q. Yes. And in the event that a road
20 was a hundred per cent subsidized by the Crown, then
21 the full figure in terms of what was spent on that road
22 would be known; isn't that correct?

23 A. That is correct, but not by the
24 public. The public would have to know what percentage
25 was covered. They have no way of finding that out.

1 Q. OOh, I see. So what you are saying
2 is that the public would have no way of knowing on a
3 particular road as to whether or not that was
4 subsidized 20 per cent by the Crown or 90 per cent by
5 the Crown?

6 A. Not in the annual report, no, and
7 nowhere else I don't believe.

8 Q. Okay.

9 MS. BLASTORAH: Madam Chair, perhaps I
10 could be of some assistance just with regard to the
11 previous evidence. I appreciate it was some time ago
12 that we heard it, but --

13 MS. SEABORN: Well, I don't really want
14 Ms. Blastorah to be putting evidence on the record. I
15 can go back and review the transcripts myself. I am
16 interested in getting the witness' view on this matter.

17 MS. BLASTORAH: I was just trying to be
18 helpful since the witness wasn't able to be responsive.
19 It was only past evidence that I was speaking of.

20 MS. SEABORN: Well, I think the witness
21 told me what his understanding was of the procedure.

22 Q. Now, Mr. Zorn, does one of the costs
23 associated with the primary and secondary forest access
24 road include the costs of a legal survey of final
25 alignment?

1 MR. ZORN: A. I am not aware of any
2 legal survey costs unless it crosses private lands or
3 patent lands.

4 Q. So there isn't generally a
5 requirement for a legal survey for final alignment for
6 forest access roads?

7 A. Not for most roads.

8 Q. And if the final alignment traversed
9 a water crossing; in that event, would a legal survey
10 of the alignment be required?

11 A. Water crossings that's deemed
12 navigable there is plans provided and the plans are
13 registered at the Land Registry Office, they are
14 published in the newspaper for 30 days, in three or
15 four newspapers of the region for public to have input
16 and eventually the bridge plans are accepted or checked
17 by the Ministry of Natural Resources and the coast
18 guard will inspect the site. It's a lengthy procedure
19 that could take up to six months.

20 Q. And that is a requirement because of
21 the Navigable Waters Act; is that correct?

22 A. Both the Navigable Waters Act and the
23 Lakes and Streams Improvement Act.

24 Q. And obviously the Crown land upon
25 which these roads are built is not purchased by the

1 companies; correct?

2 A. No, it's still Crown land.

3 Q. And so there is no tenure for the
4 company associated with a road alignment; is that fair
5 to say?

6 A. That's fair to say.

7 Q. Now, are you aware, Mr. Zorn, as to
8 in the area that your company operates whether there
9 are any water crossings -- I am sorry, let's deal with
10 the case study area just to narrow it down.

11 Within the case study area that you spoke
12 to, are there any water crossings that are scheduled
13 for abandonment in the current operating plan?

14 A. In the case study area itself in the
15 access road to it there was only one small culvert, and
16 if my memory serves me right, it's about an 18-inch
17 culvert and it was just installed to have seasonal
18 water -- balance the water level on either side of the
19 area, and since the area is still being tended I
20 believe this culvert will be left there for quite a
21 while.

22 Q. And, Mr. Perry, are you aware as to
23 whether there are any water crossings in the case study
24 area that you spoke to that are scheduled for
25 abandonment in the current operating plan.

1 MR. PERRY: A. No, I am not aware.

2 Q. Mr. Gemmell?

3 MR. GEMMELL: A. There were no water
4 crossings established in the case study area.

5 Q. That's right, thank you.

6 Mr. Johnston?

7 MR. JOHNSTON: A. We have upgraded the
8 roads in our case study area. I wasn't there to see if
9 the third party operators had to remove any culverts or
10 put any new ones in. I know that in preparation for
11 the fourth harvest, which is coming up, we will be
12 involved in it because it will be an Abitibi-Price
13 harvest, but I don't know of any that are scheduled to
14 be taken out.

15 Q. Could you confirm that for me by
16 having a look at the current operating plan that covers
17 the case study area?

18 MR. CASSIDY: Just a second, confirm that
19 what he just said that is contemplated that there will
20 be some?

21 MS. SEABORN: Yes. I want to know
22 whether there is anything in the current plan that sets
23 out a schedule for abandonment with respect to any
24 water crossings.

25 MR. CASSIDY: If I can just have a

1 moment.

2 ---Discussion off the record

3 MR. CASSIDY: Madam Chair, we can make
4 the inquiries and advise and confirm or deal with that
5 otherwise with Ms. Seaborn.

6 MS. SEABORN: Thank you.

7 Q. And, Mr. Murray, can you tell me
8 whether there are any water crossings in the case study
9 area that you spoke to that are scheduled for
10 abandonment in the current operating plan?

11 MR. MURRAY: A. The current operating
12 plan which was 85-90 was prepared by the Ministry of
13 Natural Resources. I am not familiar with what the
14 schedule of water crossing removals would have been in
15 the case study area. There were some culverts
16 installed, but there were no major water crossings.

17 Q. Okay, thank you.

18 Now, has anyone on the panel costed out,
19 for the purposes of their case study area, the
20 potential costs of abandonment and leaving aside the
21 one area where there were no water crossings.

22 Mr. Zorn, have you done any of that
23 costing work in relation to your case study area?

24 MR. ZORN: A. No, we have not, Ms.
25 Seaborn.

1 Q. Mr. Perry?

2 MR. PERRY: A. No, we have not.

3 Q. Mr. Gemmell?

4 MR. GEMMELL: A. It doesn't cost us too
5 much.

6 Q. Right, no water crossings.

7 Mr. Johnston?

8 MR. JOHNSTON: A. No, we have not.

9 Q. And Mr. Murray?

10 MR. MURRAY: A. No, we have not to my
11 knowledge.

12 Q. Mr. Zorn, in your experience what is
13 the most common method of physically abandoning a road?

14 MR. ZORN: A. The most common
15 experience, the way roads were abandoned in the past,
16 was to walk away from it. And if they had been
17 installed or if they had been constructed properly,
18 yes, it's mandatory now under the Guidelines of Access
19 Roads and Water Crossings, very little harm has been
20 done to roads even below because most water crossings
21 and culverts are of a material that is long lasting or
22 it's considered permanent in the guidelines and the
23 only damage there really is, why there has to be
24 additional work, because these roads, there are still
25 some fishermen and hunters to have access to the area

1 at their pleasure and consequent damage is done and the
2 companies normally refuse to have responsibilities for
3 it.

4 Some of this work is being done by the
5 Ministry of Natural Resources because these interest
6 groups have suddenly showed a great deal of interest in
7 these areas.

8 Q. I wanted to try and focus on roads
9 that are abandoned rather than roads that may be
10 maintained for other uses.

11 It's my understanding that the definition
12 of abandonment is that either through natural
13 abandonment you walk away from the road, or in terms of
14 physical abandonment you will put up a structure in the
15 form of a barrier or build a bridge so that people
16 can't get down that road. Would you agree with that?

17 A. I agree with it, yes.

18 Q. And in terms of physical abandonment,
19 in your experience over the years in operations would
20 it be more likely that you would put up a barrier or
21 remove a water crossing in order to effect that
22 abandonment?

23 A. We have done both; we have removed
24 structures and we have put up physical barriers at some
25 time or another if that water crossing was required

1 again.

2 Q. And in the event that you made the
3 choice to put up a barrier to effect physical
4 abandonment, has it been your experience that water
5 crossings beyond that barrier would be removed before
6 the barrier went up?

7 A. There are a few instances I can
8 recall the barrier was actually requested by the
9 Ministry of Natural Resources because anglers and
10 hunters or fishermen had found access to lake bodies
11 where also tourist operators were interested. We had
12 to remove the culvert but they found means of getting
13 around by filling them in instead of having access to
14 it.

15 Q. I'm sorry, I think you said that in
16 those instances that at the same time the physical
17 barrier went up you would have gone in and removed the
18 water crossing culvert?

19 A. Yes.

20 Q. And that is because there are ways to
21 get around a barrier?

22 A. Yes.

23 Q. Mr. Perry, in terms of your
24 experience with your company, what would be the most
25 common method of effecting physical abandonment?

1 MR. PERRY: A. I would say that we would
2 use -- have the culverts removed if that was the case.

3 Q. And, Mr. Johnston, what would your
4 experience be in relation to physical abandonment?

5 MR. JOHNSTON: A. Probably about the
6 same as Mr. Zorn. In the past we've just left the
7 road, we haven't formally abandoned the road I guess.

8 We remove crossings where they had been
9 decaying, but in the one instance where I said we
10 removed a crossing, I believe that road is also
11 accessible from the opposite side, it is a loop road.
12 I believe that to be true.

13 Q. And, Mr. Murray, what would your
14 experience be in relation to physical abandonment?

15 MR. MURRAY: A. In the area of the case
16 study, tolerant hardwood is a little different than the
17 situations explained by my colleagues because of the
18 selection system and roads are reused approximately
19 every 20 years or so.

20 And, in addition, in my experience,
21 historical experience, much of it has been in Algonquin
22 Park which have specific requirements identified for
23 road abandonment or natural abandonment.

24 In the area of the case study, basically
25 the roads were naturally abandoned and there was no

1 instance that I'm aware of where a physical abandonment
2 was actually planned, contemplated. In other areas, my
3 experience where I've often had to consider the road
4 strategies, we have used berming for physical
5 abandonment as much as anything.

6 Q. Mr. Johnston, I was interested to
7 note in your CV that you own two fly-in fishing camps
8 north of Lake Nigigon; is that correct?

9 MR. JOHNSTON: A. That's correct.

10 Q. Are there any timber management
11 activities being carried out in the vicinity of your
12 camps?

13 A. No, there isn't. When I chose those
14 areas, those camps, I flew all of the area first and my
15 northern camp was chosen because it's surrounded by a
16 big swamp with stagnant spruce on it and it's also
17 surrounded in part by two to three different burns, but
18 the trees are quite small so I don't anticipate any
19 problems for some years. It will take 40 to 50 years
20 for those trees to regrow.

21 And the second camp that I have, it is in
22 a very hilly area that would be difficult to log and
23 the logging company that was -- that harvested that
24 area has since moved away, and to the west of that
25 camp, hydro I believe is going to be building a dam,

1 the Jack Fish River project, so I think I should be
2 okay.

3 Q. What is the name of lake of the
4 second camp?

5 A. One camp is North Lamaune Lake and
6 the first one I mentioned was Felsia Lake.

7 Q. Thank you. Mr. Wright, would you
8 agree that generally there are more roads in the area
9 of the undertaking now than there were 20 years ago.

10 MR. WRIGHT: A. Yes, that is correct.

11 Q. And consequently there are more
12 people generally in the bush using those roads; is that
13 a fair assessment?

14 A. I'm not sure, but I would lean that
15 way, yes.

16 MS. SEABORN: Thank you, members of the
17 panel.

18 Madam Chair, those are all my questions.

19 MADAM CHAIR: Thank you, Ms. Seaborn.

20 Excuse me, panel members. Have any of
21 you had experience using portable bridges?

22 MR. MURRAY: Madam Chair, do you mean the
23 bailey type bridge?

24 MADAM CHAIR: Yes, we heard evidence from
25 MNR about the use of some type of portable bridge and

1 the bailey bridge which had been in use I guess for a
2 very long time had been mentioned in that context.

3 MR. MURRAY: We, again I am speaking of
4 Weldwood of Canada, we have what we call a portable
5 bridge. We acquired very large Douglas fir timbers,
6 they were 24 inch by 24 inch from Algoma Steel
7 Corporation in the Sault.

8 We used these -- they were 20 foot and 24
9 foot strands and we used these for portable, if you
10 want to call them that, bridges in which we put on
11 temporary headers on the abandonment and we remove them
12 quite regularly from one to another area.

13 MADAM CHAIR: Thank you.

14 MR. WRIGHT: Madam Chair, we have one on
15 a Crown management unit that we have used in about
16 three different locations now. We use it more on the
17 unit as a temporary bridge in major bridge design, we
18 use it as a temporary bridge to get across the river
19 while we were building our super-structure. Right now
20 we are using it as a temporary bridge -- not as a
21 temporary bridge, but to access some wood.

22 MADAM CHAIR: Thank you.

23 RE-EXAMINATION BY MR. CASSIDY:

24 Q. If I can just pick up on a couple of
25 points from his Seaborn's cross-examination, Mr.

1 Wright, and ask you if you are aware or if you have
2 ever encountered pressure or suggestions from other
3 users not to abandon roads so that they might use them
4 for their own benefit?

5 MR. WRIGHT: A. Without a doubt, it is
6 the old access versus non-access. When we go to
7 abandoned roads some groups are pressuring us to do it,
8 but just as many groups are pressuring us not to do it.

9 Q. And the use management strategy would
10 address those issues in advance in the course of the
11 planning process; is that what you envisage?

12 A. That would be correct, yes.

13 Q. I want to turn to you, Mr. Gemmell,
14 in respect of the questions on the access guidelines
15 that Ms. Seaborn had in terms of removal of water
16 crossing structures and I think it was indicated that
17 the thrust of - by Ms. Seaborn and I think it was
18 agreed to by Mr. Wright and yourself - that the thrust
19 of these guidelines deal with construction and
20 maintenance as opposed to removal structures. Do you
21 recall saying that?

22 MR. GEMMELL: A. That's correct.

23 Q. You may want to turn your mike on.

24 And I just want to confirm, however, that
25 on page 25 and 26 of the access guidelines, Exhibit

1 683, there is discussion about the removal of
2 structures and I am reading on page 25 where it talks
3 about removal and I will read it just briefly into the
4 record:

5 "Removal of structures will involve
6 excavation of all materials below the
7 high water mark. This may include
8 bridge piers, stringers, decking,
9 culverts and roadway fill. It is not
10 necessary that that excavate stable
11 bridge abutments and erosion protection
12 works, often removal of piling
13 from the riverbed is not possible.
14 Excavated material should be trucked away
15 to a suitable disposal site, at
16 least 100 metres or 350 feet away from
17 the water course. The banks and the
18 approach though should be graded and
19 trimmed to a stable angle similar to the
20 adjacent natural riverbanks. The banks
21 should be then provided with erosion
22 control treatment if necessary to prevent
23 erosion and exposed soil on the riverbank
24 should have seeded fertilizer to speed
25 revegetation."

1 Is it your evidence that that would be
2 some of the practices you would follow if you were to
3 abandon or remove a water crossing?

4 A. That's correct.

5 Q. And so to that extent the water
6 crossing guidelines -- I'm sorry, the access guidelines
7 do contain good practices that you would follow as well
8 as other members of the Industry; is that correct?

9 A. That's correct.

10 Q. And I then want to turn to you, Mr.
11 Zorn, and you indicated I think in response to Mr.
12 Hanna's cross-examination that there was a preferred
13 time of year for road locating and I think you said
14 that was in the low snow period.

15 Do you recall saying that, the spring,
16 low snow period before the leaves come out?

17 MR. ZORN: A. It is before the leaves
18 come out or after the leaves fall off in the fall.

19 Q. Right. Can you confirm for me that
20 in fact, however, road locating can and does take place
21 at other times of the year without difficulty?

22 A. That's correct.

23 Q. All right.

24 MR. CASSIDY: If I could just have a
25 minute, Madam Chair.

1 MADAM CHAIR: Mr. Wright, Mr. Cassidy put
2 a question to you a moment ago about whether groups ask
3 you not to abandon roads.

4 MR. WRIGHT: Yes.

5 MADAM CHAIR: Does that normally happen
6 at the time of the open houses for the timber
7 management plan, or in fact is that more -- does that
8 occur more commonly after you've built the roads and
9 people have used it and then become aware of the fact
10 that you might abandon it?

11 MR. WRIGHT: In past plans it has been
12 the latter case. I do suspect it will become a
13 practice addressed in the use management strategy in
14 future plans, but in past plans you have definitely
15 correct.

16 MR. CASSIDY: Madam Chair, I have no
17 further questions in re-examination of these witnesses.

18 I have an answer to an undertaking,
19 however, already for Ms. Seaborn. I wish I could give
20 them all to her right away, but the officials at
21 Abitibi-Price have been very prompt in informing me
22 that there is no plan to remove any water crossings in
23 the case study area that Mr. Johnston is giving
24 evidence in, that is in respect of the Thunder Bay
25 Lakehead case study of Abitibi-Price, and I have been

1 so informed by Abitibi-Price and pass that information
2 on to Ms. Seaborn.

3 MS. SEABORN: Thank you, Mr. Cassidy.

4 MR. CASSIDY: Those are my questions in
5 re-examination for these witnesses, Madam Chair, and I
6 respectfully request that we adjourn until three
7 o'clock to give ourselves time to get organized for the
8 next panel, if I could ask for that adjournment.

9 By that time Ms. Swenarchuk will have
10 arrived and we will have all of the electronic wizardry
11 we need set up to get in here and I will also have the
12 opportunity to try and get ahold of Mr. Hanna.

13 I assume it is your intention to permit
14 him to cross-examine notwithstanding he has not
15 provided a statement of issues?

16 MADAM CHAIR: Well, I think we left it
17 last week that Mr. Hanna would ask the Board for leave
18 and as far as I know hasn't done that.

19 MR. CASSIDY: Perhaps what I could do
20 is -- I mean, my intention was to call him and say
21 what's happening. I will do that on behalf of the
22 Board and indicate --

23 MADAM CHAIR: I think you should indicate
24 that we might be through cross-examination or we will
25 be very close to the end of it for Panel 6 this week.

1 MR. CASSIDY: All right. I anticipate,
2 as we presently stand, if we start at three o'clock and
3 get two hours in today, there is a good chance I can
4 finish by noon tomorrow with the examination-in-chief
5 subject to a host of variables, as I am sure you can
6 appreciate.

7 I am advised by Ms. Swenarchuk that she
8 plans to be a good day in cross-examination which would
9 take us to Thursday at noon presumably.

10 So perhaps what I will do with respect to
11 Mr. Hanna is inform him that he may have to be prepared
12 to be ready to go for cross-examination by Thursday at
13 noon, and in the meantime I will try and find out what
14 it is he intends to cross-examine on so if possible I
15 can deal with it in-chief and speed the process up as
16 is contemplated by the whole scoping exercise which,
17 with the greatest of respect, seems to be breaking down
18 in some cases.

19 MADAM CHAIR: Yes. Thank you, Mr.
20 Cassidy.

21 Mr. Hanna hasn't been very punctual in
22 informing parties about cross-examination, I don't
23 think for a long time, and I would appreciate it if you
24 would contact him.

25 MR. CASSIDY: I certainly will.

1 MADAM CHAIR: We will adjourn until three
2 o'clock. Thank you.

3 ---Recess taken at 11:15 p.m.

4 ---On resuming at 3:00 p.m.

5 MADAM CHAIR: Good afternoon. Please be
6 seated.

7 MR. CASSIDY: Good afternoon, Madam
8 Chair, Mr. Martel.

9 We are now prepared to commence with the
10 sixth OFIA/OLMA panel entitled Harvest.

11 I just might deal with some housekeeping
12 matters by way of filing some matters. The first
13 document I would like file is a copy of the Panel 6
14 statement of evidence entitled Harvest with the Board,
15 and can the Board advise me what the exhibit number for
16 that would be.

17 MADAM CHAIR: Exhibit 1121.

18 MR. CASSIDY: Thank you. (handed)

19 MADAM CHAIR: Thank you.

20 ---EXHIBIT NO. 1121: Panel 6 statement of evidence.

21 MR. CASSIDY: The next matter I would
22 like to deal with is to file a collection, a small
23 collection of interrogatories which the various
24 witnesses will be referring to in the course of their
25 evidence-in-chief and that I presume would be Exhibit

1 1122, and for the record I would like to indicate what
2 this collection of interrogatories consist of.

3 It starts with interrogatory No. 2 from
4 the Ministry of the Environment for OFIA/OLMA Panel 6,
5 interrogatory No. 4 from the Ministry of the
6 Environment for OFIA/OLMA Panel 6 and interrogatory No.
7 5 from Forests for Tomorrow for OFIA/OLMA Panel 4 of
8 the case studies panel.

9 MADAM CHAIR: Is that Forests for
10 Tomorrow interrogatory No. 5?

11 MR. CASSIDY: That's correct, for
12 OFIA/OLMA Panel 4.

13 ---EXHIBIT NO. 1122: MOE interrogatory question Nos. 2
14 and 4 (Panel 6) and FFT
15 interrogatory question No. 5
(Panel 4).

16 MR. CASSIDY: Madam Chair, I propose to
17 make some very brief opening remarks following the
18 pattern of the previous OFIA/OLMA witness statements.

19 Mr. Bill Roll, who is seated on the far
20 left, will be giving evidence in respect of Sections 1
21 through 7 of the witness statement; Dr. Ian Methven, to
22 his immediate left, will be giving evidence in respect
23 of Section 8 of the harvest witness statement and the
24 remainder of the witnesses plus Mr. Roll will be giving
25 evidence with respect to the harvest portions of the

1 case studies contained in Exhibit 1100.

2 So it will be handy for the Board to have
3 once again both the harvest witness statement, Exhibit
4 1121, and Exhibit 1100, the case studies binder present
5 during the balance of their evidence.

6 The new witnesses who you have not yet
7 met are of course Dr. Methven, Dr. -- I'm sorry, Mr.
8 Don Hopkins and Mr. Gary MacKay.

9 I then propose to qualify the witnesses
10 in the following format. Mr. Roll be qualified as an
11 expert in the timber management activity of harvest,
12 Mr. Hopkins as an expert in the timber management
13 activity of harvest in the black spruce Clay Belt
14 management, Mr. MacKay as an expert in the timber
15 management activity of harvest in the jack pine/aspen
16 upland cover type, Dr. Methven as an expert in
17 disturbance ecology, including the relationship between
18 natural and man-made disturbances and fire and
19 vegetation management in the boreal and Great Lakes/St.
20 Lawrence.

21 MS. SWENARCHUK: Excuse me.

22 MR. MARTEL: Could you repeat that?

23 MR. CASSIDY: I'm sorry, I apologize.

24 I don't often do that, but I will run through it again.

25 Dr. Methven as an expert in disturbance

1 ecology including the relationship between natural and
2 man-made disturbances and fire and vegetation
3 management in the boreal and Great Lakes/St. Lawrence
4 forest of Ontario.

5 Next, Mr. Johnston as an expert in the
6 timber management activity of harvest in the spruce,
7 fir, hardwood, mixed wood cover type.

8 You've got me gun shy now, Mr. Martel.

9 And Mr. Murray as an expert in the timber
10 management activity of harvest in the tolerant hardwood
11 cover type, hard maple working group.

12 You have already sworn in Mr. Roll and
13 Mr. Murray and I understand that Dr. Methven and Mr.
14 Hopkins wish to be affirmed and Mr. MacKay wishes to be
15 sworn. You have also been sworn in Mr. Johnston. So
16 if Mr. MacKay can then proceed up to the front of the
17 Board to be sworn in.

18 GARY MacKAY, Sworn
19 IAN ROBERT METHVEN,
20 DONALD B. HOPKINS, Affirmed
21 WILLIAM J. ROLL,
22 DONALD R. JOHNSTON,
23 PETER MITCHELL MURRAY, Recalled
24 MR. CASSIDY: I would like to commence by
25 referring the Board to a question raised in the scoping
session in respect of a portion of Dr. Methven's
evidence dealing with the statement that clearcutting
is not land clearing and clearcutting is not harvesting

1 on page 52 of the witness statement.

2 You went on to indicate, Madam Chair:

3 "We think we understand the context in
4 which you were making that statement, but
5 of course we have heard evidence that
6 clearcutting is a harvesting technique
7 and in fact does appear as harvesting
8 preferred option in many situations. We
9 would just like that clarified in terms
10 of what you mean in that statement that
11 clearcutting is not harvesting. We
12 assume it is a harvesting method."

13 Bearing in mind that question, the
14 witnesses would -- Dr. Methven would like to explain to
15 you three terms which you will hear in the course of
16 the evidence from the various witnesses in respect of
17 the terms silvicultural system, harvest system and
18 harvest method which you may find useful in the course
19 of commencing the evidence of Mr. Roll.

20 DIRECT EXAMINATION BY MR. CASSIDY:

21 Q. So, Dr. Methven, if you could explain
22 those definitions it may go towards answering this
23 question and assist the Board in the balance of this
24 panel.

25 DR. METHVEN: A. For the presentation of

1 our evidence we think it's extremely important that we
2 differentiate between silvicultural systems and
3 harvesting systems.

4 You can think of silvicultural systems as
5 representing a design of the system to promote the
6 regeneration and growth of species we desire. We can
7 think of the harvesting system as the tool with which
8 we implement that design. I would like to run briefly
9 through each of them and their components.

10 The harvesting system is essentially
11 composed of four components, the first of which is the
12 harvesting method and this gives its name to the system
13 itself. The harvesting method represents the form in
14 which the timber or the tree is moved from the stump to
15 roadside.

16 The second component is the operable
17 transport function which is the means by which the
18 timber of a tree is moved from the stump to roadside.

19 The third component is the felling
20 function which is the means by which the tree is
21 felled. I should maybe put that up further ahead.
22 This can be manually with a chain saw, it can be
23 mechanized with shears or a circular saw and this does
24 have some impact on slash distribution, for example.

25 And the final component would be the

1 processing function which is how the tree is processed
2 and in what form it is finally delivered.

3 Now I will move on to the silvicultural
4 system. The silvicultural system is basically composed
5 of two components: reproduction method and the tending
6 operations. The reproduction method, after which the
7 silvicultural system is named, really involves the
8 design of different opening sizes in the forest to
9 promote the regeneration and growth of a particular
10 species.

11 The tending operations come after this
12 reproduction method and they are concerned with
13 manipulating densities and species composition to
14 promote the growth of particular species of stands.

15 There are basically four reproduction
16 methods that we usually deal with. The first one is
17 clearcut, the second one is seed tree which in a sense
18 is a form of clearcut, the third one is the shelterwood
19 and the fourth one is the selection. These are all
20 four methods that give their name to the systems.

21 Q. To the silvicultural system?

22 A. To the silvicultural system.

23 Q. And I understand you will be dealing
24 with those in more detail later on in your evidence?

25 A. Yes, Mr. Cassidy.

1 MR. CASSIDY: That having been done,
2 Madam Chair, I would like to turn to Mr. Roll who will
3 be addressing, as I indicated, Sections 1 through 7 of
4 the witness statement.

5 The first section commences on page 26 of
6 Exhibit 1121 and I am going to ask Mr. James Harrison
7 to put up an overhead that Mr. Roll will speak to and
8 this overhead can in fact be found at the top of page
9 26.

10 Q. For the purposes of the record, Mr.
11 Roll, will you please read the overhead into the
12 transcript?

13 MR. ROLL: A. Yes.

14 "It is the Industry's position that
15 harvesting activities are an essential
16 and necessary part of a sound timber
17 management program. Harvesting is a
18 vital..." link "...in the renewal
19 process. An integrated relationship
20 exists between harvesting, renewal and
21 other timber management activities. No
22 one activity should be viewed in
23 isolation."

24 Q. Mr. Roll, you used the words
25 'harvesting is a vital link in the renewal process' and

1 the overhead reads:

2 "Harvesting is a vital step in the
3 renewal process."

4 Is that correct?

5 A. Yes, I'm sorry, that's correct.

6 Q. Thank you. I wonder if you could
7 please summarize the evidence that is found in this
8 section for the Board?

9 A. Yes. We believe that harvest is a
10 vital link in the chain of timber management
11 activities. In order to plan and carry out efficient
12 and environmentally sound harvest activities we have
13 got to consider all the other timber management
14 activities that we undertake. We view that harvest is
15 essential to renewing that timber resource.

16 Industry whenever it can seeks to
17 integrate the harvest activities with the other timber
18 management activities that we carry out.

19 Q. I understand, Dr. Methven, you will
20 be discussing the concept of harvest as a renewal
21 agent?

22 DR. METHVEN: A. Yes, I will.

23 Q. Mr. Roll, I understand you wish to
24 refer to some evidence from the case study prepared by
25 your company, Canadian Pacific Forest Products, in

1 respect of this section?

2 MR. ROLL: A. Yes, I do. That is
3 Exhibit 1100, the case studies, Panel 4 and the CP case
4 study is at Tab A. I would like to refer to pages 4
5 and 5 at Tab A.

6 At the top of page 4 we refer to an
7 organizational structure and it was mentioned briefly
8 in our case study introduction and it refers to figure
9 1 on page 5. I would like to point out that that
10 organization, as well as the infrastructure that was
11 described also in the case study overview, that both
12 the organizational and the structure and the
13 infrastructure, the entire infrastructure system was
14 meant to complement both and meant to support both the
15 harvest activity -- or the harvest activities as well
16 as all the other timber management activities that were
17 undertaken in that case study area.

18 I believe that it's also an example of
19 how -- both the organizational chart as well as the
20 infrastructure description are examples of how major
21 FMA companies organize themselves to integrate those
22 activities.

23 As well, at Tab A, page 17, the paragraph
24 or the top of that page describes the information
25 gathered by the forester to begin planned harvest

1 activities in the area of the case study.

2 I would like to point out that at the
3 same time he - and reference is made to this in that
4 paragraph- that at the same time he began to collect
5 information which would form the basis for planning for
6 renewal activities in that same area, and he would make
7 observations of such things as soil types, slopes,
8 current, vegetation cover and tree species,
9 understorey, drainage patterns and so on.

10 Q. Mr. Hopkins, do you wish to add a
11 portion from your case study to this evidence?

12 MR. HOPKINS: A. Yes, I can. I would
13 like to refer the Board to Exhibit 1100 again under Tab
14 D of the case studies on page 38, under the section 7.6
15 Summary, and these four paragraphs describe the changes
16 that took place from the time of the signing of the FMA
17 in 1980 on the Iroquois Falls Forest to the present,
18 the present situation in 1989 with regards to the
19 integration of harvesting and renewal.

20 Since the signing of the FMA I can assure
21 the Board that the responsibility for both harvesting
22 and renewal became the responsibility of operations
23 management which applies to me in my capacity as well
24 as the rest of the operating group that report to me,
25 and both the results for production and harvesting

1 activities and the results for renewal are also subject
2 to the same kind of review by upper management for both
3 aspects.

4 As pointed out in the summary in the case
5 study, the same employees and supervisors who do the
6 harvesting activities are also the same people that are
7 involved with site preparation and planting. And as a
8 result our supervisors and employees know the
9 consequences of what they do on a harvesting operation
10 will impact later on as they move through the various
11 phases of site preparation and renewal.

12 So, therefore, they know that if they are
13 doing something in the harvesting phase that would
14 cause them problems later in, let's say for instance,
15 the planting, they know the immediate results of that
16 and they are pretty careful not to get into a situation
17 where they create themselves problems or more work
18 later on.

19 Another example being, if I arrange for a
20 piece of inappropriate equipment, and I will use an
21 example that happened last year when an equipment
22 supplier of the grapple skidder wanted us to try a
23 grapple skidder on a one-week trial and told us that it
24 would be equipped with wide tires which, as you know,
25 in the Clay Belt soil-bearing capacity is of concern.

1 So we said yes, bring the machine and we
2 will give it a try. And the problem with that machine
3 when it arrived it came equipped with 30-inch wide
4 tires rather than what we consider wide tires or high
5 flotation wide tires up to 50 inches in width.

6 Within a very short period of time our
7 supervisors had alerted us that this machine with the
8 tires that it was equipped with or supplied with
9 weren't appropriate for the sites we had, they made
10 arrangements to move the machine on to more suitable
11 sites, and then we made arrangements with the dealer to
12 get the proper tires installed.

13 As well on our renewal operations we also
14 take a logging approach to our responsibilities under
15 the FMA. We do things such as double-shifting site
16 preparation jobs. We have incentive systems for
17 renewal work for our employees, we utilize or modify
18 existing logging equipment to use on renewal
19 activities. And later on in our evidence I will be
20 showing the Board an example of this.

21 We use the same kind of indoctrination
22 and training programs for employees when they start
23 working for the company and also when they change jobs
24 from a harvesting job to a renewal job such as planting
25 or site preparation.

1 And, in general, the approach that we
2 take to renewal or activities is the same as logging in
3 that we try to maximize -- organize ourselves to
4 maximize efficiency on both aspects.

5 As well on renewal activities, because
6 the same supervisors are doing both functions, it shows
7 up in every day planning. For instance, the supervisor
8 in charge of site preparation in the wintertime in our
9 operation will coordinate with his colleague, the haul
10 supervisor, to ensure that the proper timing is used,
11 that the wood is hauled prior to site prep so we can
12 maximize the area that is being prepared for planting.

13 On the larger scale major infrastructure
14 planning decisions such as, for instance, if we have to
15 relocate a camp or build a new logging camp, we have to
16 design the camp not only to support the harvesting
17 operation and the number of people that are going to be
18 required to harvest, but we design it so that it will
19 also be large enough to support the planting program,
20 for instance, in the spring which is -- in our case is
21 a peak period when we have the most employees working.

22 So in summary, as indicated on the bottom
23 of the page, the integration of the harvesting and
24 renewal program on the Iroquois Falls Forest we
25 consider to be very successful and has produced a well

1 co-ordinated management system.

2 Q. Mr. Johnston, I understand you wish
3 to refer to a portion of the case study at Tab 4C in
4 respect to this section?

5 MR. JOHNSTON: A. Yes I do, Mr. Cassidy.
6 Madame Chair, Mr. Martel, I would like to direct the
7 Board to Exhibit 1100 of Panel 4C, pages 21 and 24. On
8 page 21 paragraph 6.1.3 titled Harvesting, we refer to,
9 and I quote --

10 Q. I am sorry, is that page 21?

11 A. On page 21, paragraph 6.1.3.

12 Q. All right.

13 A. Titled Harvesting.

14 Q. Yes.

15 A. We refer to, and I quote:

16 "The third party operator was encouraged
17 to salvage all remaining commercial
18 softwood and hardwood values on the NSR
19 areas scheduled for site preparation in
20 1982-1983 Annual Plan."

21 And again on page 24, the last sentence
22 of the second paragraph:

23 "Accordingly, Abitibi-Price has been
24 encouraging third party operators to
25 establish the following priorities in

1 harvesting:

2 a) aspen residuals in recent softwood
3 harvest areas;

4 b) NSR clean-up prior to renewal
5 treatments; and,

6 c) newly allocated stands.

7 The rationale behind this strategy has
8 been to utilize all possible marketable
9 materials; to make the sites cleaner
10 prior to mechanical site preparation and
11 planting; and to reduce the tendency for
12 softwood and mixedwood stands to
13 regenerate to hardwoods and brush, rather
14 than preferred softwoods."

15 The clearcut system was used and these
16 are interconnected because of the fact that the action
17 was for harvest and also to facilitate future planned
18 regeneration projects.

19 Q. Thank you. And finally on this
20 section, Mr. MacKay, I understand you wish to refer to
21 a portion of your case study?

22 MR. MacKAY: A. Yes I do, Mr. Cassidy.

23 MR. CASSIDY: And that can be found,

24 Madam Chair, Mr. Martel, at Tab 4B.

25 MR. MacKAY: Yes. I would like to direct

1 the Board's attention to that Exhibit 1100 once again
2 on page 2 at Tab 4.

3 MR. CASSIDY: Q. If you could just hold
4 on a minute, Mr. McKay. That was page 2?

5 A. Page 2, yes. Okay. Section 2, the
6 third paragraph down:

7 "The case study area was selected because
8 it contained a deliberate,
9 well-documented, long-term experiment
10 comparing two distinct management
11 systems: aspen overstory maintenance and
12 aspen overstory removal prior to planting
13 of jack pine."

14 I believe this is one example of how we
15 have changed our harvesting activities to accommodate
16 the ensuing silvicultural renewal activities from our
17 case study area. And I would also like to make
18 reference under Tab 4B on page 7.

19 Q. Page 7?

20 A. Page 7, yes.

21 A. This organizational structure is very
22 similar to what Mr. Roll has presented with CP Forest
23 Products. You can see that the manager of the fiber
24 supply there and the manager of forest resources both
25 report to the same person. Also the district

1 superintendents in this area also had the operations
2 foresters and the silvicultural people reporting to
3 them as well as the operations people. This
4 organizational structure has changed very little since
5 the time of our case study harvesting in 1980.

6 I would also like to give one more
7 example of how we integrate the two activities. We
8 have done many experiments in the last couple of years
9 where we have removed all the standing timber from
10 certain areas with our harvesting equipment in order to
11 facilitate the ensuing renewal activities. The reason
12 for this was to apply a disc trencher scarification
13 technique rather than the conventional D-7 with Young's
14 teeth on it.

15 Q. D-7, is that a --

16 A. A tractor.

17 Q. A tractor.

18 A. Yes.

19 Q. I am sorry. That's Young's teeth?

20 A. Yes. Young's teeth is just a term
21 for the two attachments that fit on the front of the
22 blade of the D-7 that expose mineral soil. These were
23 carried out, as I said, about year and a half ago and
24 it's another example of how we integrate the two
25 activities.

1 MR. CASSIDY: Then if I could ask Mr.
2 Harrison to put the next overhead in respect of Section
3 2 of the evidence, Madam Chair, which can be found
4 commencing on page 27.

5 Q. And Mr. Roll, if you could please
6 read this overhead into the record which can be found
7 on page 27?

8 MR. ROLL: A. Yes.

9 "It is the Industry's position that mill
10 demands for wood supply in response to
11 market forces create the need and the
12 reason for harvesting activities."

13 Q. And could you summarize briefly the
14 evidence contained in this section?

15 A. Yes, I can. In the context of the
16 whole of the area of the undertaking harvesting is
17 conducted to satisfy changing provincial, national and
18 international markets for forest products.

19 In the context of any particular
20 management unit, harvesting and renewal are undertaken
21 to meet the current and future raw material demands of
22 a given mill or mills supplied by that management unit.

23 In either context whether it be
24 throughout the area of the undertaking or the
25 particular management unit, it is the presence or

1 absence of wood requirements which determines the need
2 to harvest that particular area.

3 Also changes in these wood requirements
4 can necessitate changes in our plants and necessitate
5 modifications to current harvesting activities. They
6 also may require the development of new harvesting
7 plans and activities.

8 Any of these changes or modifications
9 though would have to be made within the context of
10 assuring a continuous and long-term supply of wood to
11 those mills -- to that mill or those mills.

12 To illustrate this position I would like
13 to again turn to Exhibit 1100 and that is at Tab A.

14 Q. All right. If you could just hold on
15 we will get to it.

16 A. And page 2 at Tab A, the second last
17 paragraph on that page describes -- is an overview of
18 the case study area and it describes the fact that the
19 reason for going into the area, accessing the area and
20 beginning harvest on this particular area of the
21 English River Forest was to satisfy demands created by
22 a new kraft mill built at the Thunder Bay mill complex
23 as well as the new stud mill that was also constructed
24 at that complex during 1975. The two are directly
25 related.

1 Q. I believe the Board -- is that the
2 stud mill the Board visited on a site visit?

3 A. Yes, it is.

4 Q. Mr. Hopkins, could you assist the
5 Board with evidence from your case study please, Tab
6 4D.

7 MR. HOPKINS: A. Yes, I can. Again
8 referring to Exhibit 1100 under case study D on page 3,
9 at the top of the page, this just refers -- the top
10 sentence refers to the annual supply of wood to the
11 Iroquois Falls newsprint mill as being 300,000 cubic
12 metres per year from off the FMA.

13 Q. That is in the first paragraph on
14 page 3?

15 A. That's right, at the top of the page.

16 Q. Yes.

17 A. This would represent what we would
18 consider normal level of operation from the FMA
19 representing a normal mill demand. There are two
20 instances in my experience where changes in mill demand
21 had a dramatic effect on our need to harvest.

22 The first was in 1975 when there was a
23 strike of Abitibi-Price mills in eastern Canada. This
24 resulted in an immediate curtailment of harvesting
25 operations which lasted several months until the strike

1 was resolved.

2 Again in 1982 there was a slump in the
3 newsprint markets and this reduced the wood
4 requirements of our mill at Iroquois Falls and
5 necessitated the consolidation of two large operating
6 camps into one at that time, and that can be seen on --
7 the two operating camps are referred to on page 18 of
8 the case study D.

9 Another example where mill demand affects
10 the need to harvest are other species on our FMA which
11 are poplar and birch. These are two species that our
12 mill cannot utilize and so, therefore, we don't harvest
13 it on our operations. However, these species are being
14 harvested by third party operators to satisfy their own
15 mill or market demands.

16 Q. Before I move on to Mr. Johnston, I
17 just want to come back to you, Mr. Roll. You talked
18 about changes being made in wood supply requirements
19 and consequently changes being made in plans. Those
20 changes I take it would occur within a timber
21 management planning process?

22 MR. ROLL: A. Yes, they would.

23 Q. Could I then move on to you then, Mr.
24 Johnston, and ask you to assist the Board with evidence
25 from your case study in respect of this section, case

1 study 4C.

2 MR. JOHNSTON: A. Yes, Mr. Cassidy.

3 Madam Chair, I would like to direct the Board to
4 Exhibit 1100, panel 4C page 24, paragraph 2 where we
5 refer to --

6 Q. Maybe you can just hold on a second,
7 Mr. Johnston. Go ahead.

8 A. After almost 50 years of harvesting
9 in the vicinity of the case study area, remaining
10 mature stands were avoided in early harvesting
11 activities because the species mix did not suit
12 existing product requirements or markets. For example,
13 the spruce and fir for newsprint, and aspen and birch
14 for logs and veneer.

15 Since the signing of the FMA there has
16 been a market for aspen to produce kraft pulp and
17 waferboard. New markets enable us to return for two
18 more cuts. This harvest was market driven.

19 Q. Mr. Murray, I understand that you
20 wish to provide evidence in this panel as well as
21 several other panels in respect of your case study 4 at
22 Tab 4E in Exhibit 1100 in respect of this section of
23 the evidence?

24 MR. MURRAY: A. That's correct, Mr.
25 Cassidy. Again I am going to ask the Board to refer to

1 Exhibit 1100 at Tab E, that is the G.W. Martin case
2 study, Tab E.

3 Page 21 at the very bottom of the page
4 where we are commenting on purchasewood, in this case
5 it continues on to the next page. The paragraph goes
6 on to explain the importance of purchasewood to G.W.
7 Martin and purchasewood is not important to just G.W.
8 Martin, the availability of purchasewood is important
9 to many of the mills in the undertaking.

10 The particular circumstances for Martin
11 were that the average purchasewood percentage is about
12 26 per cent. It can range from 16 to 37, that is plus
13 or minus 10 per cent, which amounts to a significant
14 percentage of the supply for the mill and when -- the
15 reason for this variation would be a number of things;
16 competition for the logs from other buyers, weather
17 conditions in which the supplier of purchasewood will
18 not be able to get in and harvest, therefore, there is
19 no logs available, the economy, the strengths of the
20 economy will drive the demand up and make availability
21 of personnel to harvest short.

22 So that there is a need for a flexibility
23 in the Crown harvesting plan to adjust to these
24 purchase logs because when they are available they must
25 be purchased. They are there and they must be taken

1 and, as I say, this applies to not only the G.W. Martin
2 mill but to most mills.

3 On page 23 of that case study there is
4 also a breakdown of the purchasewood -- of the log
5 supply origins for the G.W. Martin mill in both metric
6 and in merchantable fbm. You can take your choice as
7 to which one you want.

8 Q. All right. Mr. MacKay, in respect of
9 case study 4D, I understand you wish to address this
10 section of the evidence?

11 MR. MacKAY: A. Yes, Mr. Cassidy. I
12 would like to refer the Board once again under Tab B of
13 the Exhibit 1100, page 5.

14 Q. Just one moment.

15 MR. CASSIDY: Madam chair, is it your
16 intention to sit right through to five o'clock?

17 MADAM CHAIR: Mr. Martel said it depends
18 on how quickly you go.

19 MR. CASSIDY: You are throwing the ball
20 back in my court.

21 MADAM CHAIR: We are reconvening at five
22 o'clock, aren't we, for the discussion of Ms.
23 Swenarchuk's proposal. Why don't we stop at a quarter
24 to five.

25 MR. CASSIDY: Well, we've had a brief

1 discussion amongst counsel in respect of that matter
2 and we were going to propose that that discussion be
3 deferred for some period of time, which we could advise
4 you of first thing in the morning tomorrow in order to
5 give those counsel present further time to discuss Ms.
6 Swenarchuk's proposal.

7 It may not be necessary to have a long
8 discussion if we have the opportunity to sit amongst
9 ourselves at five o'clock. And, therefore, what we are
10 suggesting is that we break at five, counsel would meet
11 and then perhaps tomorrow at some point discuss with
12 the Board when we would address it before you further,
13 in what I suspect would be a more truncated and shorter
14 form.

15 MADAM CHAIR: That is a sensible idea.
16 Let's do that.

17 MR. CASSIDY: Thank you. Then I presume
18 we will go right to five o'clock?

19 MADAM CHAIR: Yes.

20 MR. CASSIDY: Q. I am sorry, Mr. MacKay,
21 if you could refer us again.

22 MR. MacKAY: A. Yes. Once again we are
23 at Exhibit 1100 under Tab B on page 5. I would like to
24 refer to the third paragraph down on that page.

25 "...Eddy agreed to regenerate the jack

1 pine working group to jack pine. This
2 was a logical choice due to the heavy
3 dependence of Eddy's Nairn Centre saw
4 mill on jack pine - a preferred species
5 for construction lumber, mining timbers,
6 ties and pressure-treating."

7 I believe this is a very good example
8 of -- this is a mandate for our woodlands operations.
9 This is to supply our lumber mill and it's completely
10 market driven obviously.

11 Secondly, in the case study examples I
12 would like to refer to page 14 under Tab B as well.
13 Okay, the second paragraph from the top:

14 "The decision not to utilize aspen was
15 based primarily on the lack of a suitable
16 market."

17 I will be discussing this further in my
18 case study overview, apparently tomorrow, and I think
19 Mr. -- I know Mr. Waddell has already spoken to this,
20 but I will be elaborating further upon this later and
21 this is another example of why we did not harvest
22 poplar because there was no suitable market for it.

23 If I could, I have a couple of more
24 examples of this under Section 2 on Harvesting and Wood
25 Supply Demands. The biggest example that E.B. Eddy can

1 give is that in 1975 we changed our entire woodlands
2 operations to one from supplying a pulp mill to one
3 that supplied a lumber mill, completely because of the
4 market demand for lumber we switched our entire
5 woodlands operations to that market.

6 Another example, we have developed
7 markets for red and white pine for window sahes,
8 furniture and whatnot, and in fact one of our operating
9 camps survives solely because of that market for the
10 red and white pine.

11 And finally, because of the demand for
12 lumber that our lumber mill dictates to the woodlands
13 operations, we will change our harvesting systems to
14 accommodate them.

15 For the Board's information our lumber
16 mills comprise of two different size lumber mills
17 within the same compound; a large dimension mill and a
18 small dimension mill. If for one reason or another we
19 are getting low on, say, stud material for our small
20 dimension mill, we will start sorting our wood at
21 roadside by a certain diameter class to accommodate
22 them and thereby give them more material to feed the
23 small dimension mill.

24 MR. MARTEL: Could I ask a question. You
25 said you changed your woodlands operations. Does that

1 account for your heavy reliance I think on chips and
2 whatnot at Espanola?

3 MR. MacKAY: I am sorry, I missed the
4 last part.

5 MR. MARTEL: Does that account for your
6 large demand on chips and whatnot on Espanola?

7 MR. MacKAY: Yes. Our woodlands
8 operations, every piece of wood we cut goes to Nairn
9 and a certain percentage of that will go as chips to
10 our pulp mill as residuals. You know, they cannot make
11 lumber out of that, and the remaining chips are
12 purchased from local people in the area.

13 MR. CASSIDY: Q. Nairn is spelled
14 N-a-i-r-n, I believe?

15 MR. MacKAY: A. That's right.

16 MR. CASSIDY: All right. If we could
17 then move on to the third section of the evidence which
18 commences at page 29, Madam Chair, and Mr. Harrison is
19 putting up the overhead that can be found at the
20 beginning of that page.

21 Q. And I am going to ask Mr. Roll to
22 read that into the record prior to summarizing the
23 evidence.

24 MR. ROLL: A. "It is the Industry's
25 position that the choice of silvicultural

1 system or systems and renewal method or
2 methods to be used in a management unit
3 is an evolutionary process that takes
4 into consideration:

5 () the silvical characteristics of the
6 species present in the unit;

7 (b) the terrain, site and stand
8 conditions of the units;

9 (c) the wood supply factors present in
10 the unit; and,

11 (d) available resources."

12 Q. And could you please summarize the
13 evidence in this section, Mr. Roll?

14 A. Yes, I will. Here we are referring
15 to two items; the first is the choice of the
16 silvicultural system, the second is the choice of the
17 renewal method within the silvicultural system.

18 The choice of the silvicultural system
19 such as clearcut, shelterwood, selection depends mainly
20 on (a) the silvical characteristics of those species
21 found in the units. The choice of the renewal method
22 depends on all the points listed here (a) to (d)
23 inclusive.

24 In both these cases we are referring to
25 the timber management activities as they stand alone.

1 There are of course many other considerations that have
2 to be taken into account. Non-timber values will cause
3 modifications of our harvest operations within a
4 silvicultural system.

5 It's the Industry's position that the
6 silvicultural system in use in any particular
7 management unit is the result of development over time
8 of a system that is appropriate for the species and the
9 silvical characteristics of those species which are
10 found on that management unit.

11 This development over time has created
12 systems which take advantage of the regeneration
13 characteristics of the timber species found in that
14 unit. Dr. Methven will talk more about this in Section
15 8.

16 Q. All right. I understand however that
17 you wish to refer to a portion of your case study, Tab
18 4A in respect of this section?

19 A. Yes, I do. I would refer the Board
20 to Appendix 1 at Tab A.

21 Q. All right.

22 A. That is at page 50.

23 Q. Give us a moment to find that.

24 A. These are the silvicultural
25 specifications and regen standards, regeneration

1 standards.

2 Q. The pages behind it are not numbered
3 but you were going to refer to...?

4 A. I am going to refer to the second
5 table within that appendix.

6 Q. All right.

7 A. And I would like to remind the Board
8 that in the case study overview on the left-hand side
9 the No. 2 position is where we located our case study.
10 If you will go across to the third column, Column 3,
11 the silvicultural system listed here is clearcut.

12 I would like to point out that these
13 ground rules were developed with the combined
14 experience of both Industry and MNR personnel. The
15 combined experience of these people included evidence
16 of successful regeneration of sites such as the ones
17 found in the case study when these areas were managed
18 under a clearcut silvicultural system, so they had
19 strong evidence that these areas could be regenerated
20 and could be renewed when the clearcut silvicultural
21 system was used.

22 Thus this system was ***allowed by these
23 ground rules when the English River Forest forest
24 management agreement was signed in 1980.

25 The Board has seen during its Dryden site

1 visit many stands of this upland jack pine site type or
2 cover type, both mature stands as well as renewed
3 stands during the time of some of the helicopter
4 overflights and also on some of the operations of CP
5 Forest Products in that area.

6 Q. All right. Mr. Hopkins, can you
7 assist the Board in this section?

8 MR. HOPKINS: A. If I could refer the
9 Board to Exhibit 1100, case study D, page 37. The
10 section under the title Natural Regeneration describes
11 the silvicultural system at the time of the case study
12 in 1980 and I'm going to explain a little bit the
13 evolution of a regeneration technique.

14 At the time of the case study in 1980,
15 which was just prior to the signing of the FMA at
16 Iroquois Falls, the trend or the technique for natural
17 regeneration being used was to attempt -- was to modify
18 the harvest, and this is indicated in blocks B and C,
19 with the intention of getting some seeding from the
20 adjacent standing timber, and this is described for
21 blocks B and C, block B is seed tree groups were left
22 in a clearcut and in block C alternate blocks were left
23 in the clearcut silvicultural system.

24 Since the signing of the FMA, our own
25 experience and surveys have indicated that lowland peat

1 sites, black spruce sites were and could be -- were
2 regenerating largely due to the advanced growth found
3 on these sites and we found -- we were finding that if
4 we could protect the advanced growth at the time of
5 harvesting then we can regenerate these sites
6 satisfactorily by doing that.

7 This led to our desire to develop
8 harvesting equipment that would have less impact on the
9 sites and this led to our pursuit of low ground
10 pressure harvesting systems.

11 The development of these harvesting
12 systems since that time provides for a wider range and
13 often more appropriate natural regeneration techniques
14 than were used at the time of the case study. The use
15 of full-tree harvesting systems has also allowed for
16 some sites being able to be harvested and then renewed
17 by planting without the need for site preparation which
18 also results in utilizing more of the advanced growth
19 and less disturbance to the site.

20 Q. All right. And, Mr. Murray, can you
21 assist the Board in this section?

22 MR. MURRAY: A. Yes, Mr. Cassidy. I am
23 not going to refer the Board to any specific spot in
24 the case study 4E because I am addressing the silvics
25 of the specie maple and it was explained, as the Board

1 has heard, at some length in Ministry Panel 10, Exhibit
2 416A that maple is a specie which is tolerant and in
3 which the seedlings can survive under intense shade for
4 a significant period of time before being released and
5 becoming advanced regeneration.

6 What I would like to point out is that
7 prior to -- because of the fact that maple is a specie
8 that can exist under shade, the selection silvicultural
9 system has been applied, as the Board will be aware.

10 And prior to the use of timber tree
11 marking for the harvesting system, the maple stands,
12 tolerant hardwood stands were cut on what was known as
13 a diameter limit selection type basis in which the
14 trees were identified only by diameter and those above
15 a certain diameter, 16 inches, as it was on the stump,
16 were permitted to be cut.

17 This was not the best method for the
18 management of the system and over the last 15 or so
19 years, as a result of some of that information that I
20 presented in the case study, they have developed a
21 system of tree marking to obtain what we describe as
22 the ideal forest or an attempt to achieve the ideal
23 forest distribution in which there will be a good range
24 of young trees and a supply of mature trees for
25 harvesting and in which the quality of trees can be

1 improved.

2 So there was an evolutionary process in
3 the development of the selection marking system.

4 Q. Thank you. If we could then move on
5 to section 4 and in the next overhead, please. I'm
6 sorry -- yes, Section 4.

7 MR. CASSIDY: This commences at page 31
8 of Exhibit 1121, Madam Chair.

9 Q. Mr. Roll, could you please read this
10 overhead in? It can be found at the top of page 31.

11 MR. ROLL: A. Yes.

12 "It is the Industry position that the
13 silvical characteristics of particular
14 species and the terrain site and stand
15 conditions found in specific management
16 units have caused the development over
17 time of harvesting equipment that is
18 suited to that unit. Equipment choices
19 and modifications to equipment used in a
20 unit must be appropriate to and efficient
21 for the conditions present in the unit."

22 Q. And could you once again summarize
23 the evidence obtained in this section?

24 A. Yes, I can. The development and use
25 of equipment is an ongoing process that takes advantage

1 of both engineering research and actual site specific
2 field experience. This is in the form of field trials,
3 as well as operational experience.

4 Equipment and equipment modif -- or
5 equipment combinations have been developed to take --
6 to cope with such site specific conditions as slopes,
7 steepness or gentleness of slopes, different soil
8 types, different moisture regimes, ground roughness,
9 for example, extreme boulder areas.

10 Q. If you could just slow a bit, Mr.
11 Roll?

12 A. And tree size.

13 Q. Yes.

14 A. Given this relationship between site
15 specific conditions and equipment development, then
16 decisions on use and/or modifications of equipment are
17 best made on a site-specific basis. Equipment
18 modifications or the methods of use of equipment must
19 be tailored to the local conditions in which the
20 equipment will be operating.

21 I guess basically there is no use owning
22 or utilizing a piece of equipment if you can't operate
23 it on the kind of conditions on which you have your
24 limits or your harvesting area.

25 Q. And you wish to refer to portions of

1 your case study at Tab 4A?

2 A. Yes, I do. I would like to refer to
3 Tab A, Appendix 4 and this is at pages 69 and 70.

4 Q. Okay. If you will just give us a
5 minute.

6 A. At the bottom of page 69 and at the
7 top of page 70 there is a discussion of two items of
8 equipment development. The first is one discussing
9 some new designs in the KFFs, which are Koehring feller
10 forwarders, a large piece of woodlands equipment.

11 It talks about the development of some
12 new smart hydraulic systems that are computer
13 controlled which direct sort of the energy of the
14 hydraulic system to any given wheel to apply more
15 traction and even traction. This is far more sensitive
16 to site than some of the old machine designs.

17 I would like to add that these machines
18 have been developed in two styles. There is
19 something -- new model that's called the K220 feller
20 forwarder and this machine is smaller than the
21 prototype which was the K330. The K220 was designed
22 specifically for use on softer sites. It has less
23 ground pressure, but it also has a little bit less
24 productivity because it carries somewhat less of a
25 load. On the other hand, the K330 is perfectly

1 applicable to the dryer sites, to the better sites and
2 appropriate for use there with the added productivity.

3 So there is a place for both, but
4 equipment development in this sense is sensitive to the
5 sites we operate on.

6 Q. Could you just give me a minute. All
7 right.

8 A. The second point referred to on the
9 top of page 70 is one around an experiment that I talk
10 about with an oversized radial tire.

11 Q. That's the very first part of page
12 70?

13 A. Yes, the very top paragraph.

14 Q. Yes.

15 A. We are not talking here of the
16 extremely wide, low ground pressure tires that were
17 utilized in the summer in the Clay Belt, these are just
18 wider tires.

19 The particular trial with radial tires
20 with oversized radials failed because of the soft
21 sidewalls and punctures and so on, but our company,
22 Canadian Pacific Forest Products, is working with a
23 major rubber company to develop different tire
24 configurations and currently we are working on mounting
25 conventional tires on wider rims, on larger rims which

1 in essence, for the same size tires, gives a bigger
2 footprint and less ground pressure.

3 We are also working on the use of smooth
4 tires; they have no treads. They are used in
5 combination with chains. We find even our treaded
6 tires are used with chains, but when you use a smooth
7 tire with chains there is less chances of it picking up
8 sticks with the chains and it gives you a far more
9 positive ground pressure -- far more positive grip on
10 the ground without the spinning and so on that would
11 take base place or that could take place with
12 conventional tires.

13 Q. The spinning could cause further
14 disturbance?

15 A. It could.

16 Q. And, Mr. Hopkins, can you provide us
17 with assistance from your panel -- I'm sorry, your case
18 study 4D?

19 MR. HOPKINS: A. I will be referring to
20 again Exhibit 1100, case study D on page -- beginning
21 at page 20.

22 Q. Just give us a minute.

23 A. And the section I will be describing
24 begins under the title Operating Practices from 1980
25 Until the Present and it involves the next four pages.

1 This describes the changes that took
2 place in our harvesting systems since the time of the
3 case study area in 1980, the time it was harvested, in
4 1980 to the present and as an illustration of the
5 changes in harvesting systems, our evolutionary
6 harvesting systems, I am going to describe the
7 evolution of the off-road transport phase within the
8 harvesting system.

9 As the Board knows, in the Clay Belt
10 situation we are dealing with soft soil conditions and
11 equipment choices and practices have always been
12 dictated by the soft ground typically found on the Clay
13 Belt.

14 Q. When the Board went to the
15 Kapuskasing area for their site visit, was that the
16 Clay Belt?

17 A. Yes, it was. Even prior to 1970s
18 when horses and cable yarders were forwarding wood to
19 roadside, because of the soft ground conditions the
20 operations were mainly confined to the winter.

21 Following the 1970s with the introduction
22 of the wheeled skidder, the timing of harvest still
23 remained critical; however, at the same time employee
24 demand and logistical reasons for year-round operations
25 were increasing.

1 Our company at that time, in the 1970s,
2 were actively searching for low ground pressure
3 equipment. On our conventional -- or on our skidders
4 we were using a 24 inch wide tire which at the time in
5 those days was considered a wide tire when many
6 operations were able to use 18 inch wide tires on
7 similar type skidders.

8 We also had some prototype track
9 equipment that was used on a trial basis on our
10 operation and harvesters. The reason then was
11 efficiency, but I would just like to point out that
12 efficient operations and efficient forwarding would
13 also imply low impact forwarding.

14 In the 1980s we saw the emergence of the
15 50 inch to 60 inch wide high flotation tire which was
16 developed at Kapuskasing and I believe you saw that
17 tire on your site visit equipped on a wheeled skidder.

18 With the introduction of the high
19 flotation wide tire on the skidder, we achieved
20 skidding capability or ground pressures approximately
21 equal to a man's footprint of about 5.1 pounds per
22 square inch, and that's referred to on page 22.

23 Q. 22 of Tab 4D, Exhibit 1100?

24 A. That's right. By 1987 all our cable
25 skidders were equipped with wide tires at a cost of

1 \$20,000 per machine for the tires only.

2 In 1988 we purchased a Lokomo clambunk
3 forwarder equipped with 48 inch wide tracts and a load
4 suspension. This further extended our low impact
5 forwarding capability on softer sites.

6 I believe the Board saw an Ardco
7 forwarder in the garage at the Kapuskasing operation
8 and that particular clambunk forwarder was equipped
9 with wide tires; however, the configuration of the bump
10 that hauls the wood would be similar to the Lokomo
11 clambunk forwarder that I am describing.

12 The difference is that the tracks,
13 suspension on the Lokomo forwarder brings down the
14 ground pressure to less than of a skidder equipped with
15 wide tires.

16 Today we have purchased four Lokomos
17 which handle 80 per cent of our forwarder needs in
18 1989. These units cost over \$460,000 each and while
19 suitable for our situations and sites, would not be
20 practical or required for all sites.

21 I point this out to the Board to
22 emphasize that the equipment choices and their
23 development are very much site and location specific
24 and while we are pleased with the Lokomos at the
25 present time, we will continue to develop and try new

1 alternatives as they become available.

2 Q. Thank you. Mr. Johnston, can you
3 assist from your case study, 4C?

4 MR. JOHNSTON: A. Yes, Mr. Cassidy.
5 Madam Chair, Mr. Martel, I would like to direct the
6 Board to Exhibit 1100, Panel 4C, page 20.

7 Q. While the Board is looking for that,
8 could you spell Lokomo for the benefit of the reporter,
9 Mr. Hopkins.

10 MR. HOPKINS: Yes. L-o-k-o-m-o.

11 Q. All right.

12 MR. JOHNSTON: This is paragraph 6.11
13 entitled Harvesting 1954 to 1956. The equipment in our
14 case study area involved manual felling trees with a
15 buck saw and delimbing with an ax. Trees were then
16 bucked into eight foot bolts and were piled into
17 approximately one foot piles.

18 These piles were moved to roadside by a
19 Nelson skidder. A Nelson skidder is basically a
20 bulldozer with a rack that goes on the back and cable
21 would be fed around the rack, it would lift the bundle
22 off the ground and the tractor would transport it to
23 roadside.

24 After a few years we progressed to a
25 Johnson skidder. This, again, was basically a

1 bulldozer with a hydraulic clamp attached to the back
2 end. The clamp gathered up the bundle, lifted it off
3 the round and was carried to roadside.

4 On rough and hilly terrain and in mixed
5 wood stands, a horse was used to skid the individual
6 trees to roadside because a horse could wind its way
7 through the uncut hardwoods. Once at the roadside, the
8 trees were bucked into sawlogs, if the tree was large
9 enough, or into eight-foot pulp six lengths. At about
10 this time power saws came into being and made felling
11 and bucking much easier.

12 Q. Can you give a date on when those
13 power saws came into being, approximately?

14 MR. JOHNSTON: A. Just a second. I
15 think it was the middle or late 50's.

16 Q. Thank you. All right.

17 A. The articulated wheeled skidder was
18 introduced, harvest crews consisted of two men felling
19 and delimbing the trees while the third man operated
20 the skidder which pulled approximately 10 to 15 trees
21 at a time to roadside piles where they were then bucked
22 into desired lengths by either a manually operated
23 power saw or by a mechanical slasher.

24 We now have evolved to mechanical feller
25 bunchers which cut the trees and place them in bundles.

1 A hydraulic grapple skidder will gather the bundles and
2 skid them to roadside. At roadside the trees are
3 mechanically delimbed and then repled, a mechanical
4 slasher will then cut the tree lengths into desired
5 lengths and reple them in preparation for loading and
6 hauling to the appropriate mills.

7 As you can see, development started with
8 the buck saw and ax in the 1940s or earlier to where it
9 is now and I'm sure it will continue to develop and to
10 change.

11 Q. All right. Mr. MacKay, in your case
12 study I understand you wish to discuss equipment
13 developments?

14 MR. MacKAY: A. Yes, Mr. Cassidy. I
15 have one example from the case study and I would like
16 to refer the Board to Exhibit 1100 once again, Tab B on
17 page 12.

18 We see here under Alternative, 6.2, we
19 had at the time of our case study, our harvesting
20 operations, three alternatives to choose from. Two --
21 A and B there are two mechanized combinations and then
22 C is a semi-mechanical system.

23 The mechanical harvesting systems were
24 rejected at the time due to the heavy concentrations of
25 mature poplar in the area which hindered the

1 maneuverability of the mechanical equipment. Also
2 there was occasional bedrock outcrops and surface
3 boulders that would further reduce their
4 maneuverability.

5 I would also like to add, though, that we
6 would not hesitate because of the development of
7 equipment that we would harvest this area today with
8 the mechanical equipment that exists in this day and
9 age.

10 There are other examples that I would
11 like to give not concerning the case study but how the
12 equipment is developed at E.B. Eddy. We have installed
13 wider tires on all of our cable and grapple skidders,
14 wide in our sense, not as wide as what Mr. Hopkins has
15 explained. We consider wide tires in our area to be
16 about 30 inches and that's -- 24 to 30 inches is quite
17 normal now for us compared to the old 18-inch width
18 size.

19 Also, we've put wider tracks on our
20 feller bunchers. Also, we've been experimenting with
21 various types of sawheads on your feller bunchers, from
22 the continuous type sawhead to an intermittent type
23 sawhead which protects the disc and cutting teeth in
24 the event that it contacts a rock.

25 In one situation we encountered a jack

1 pine stand, overmature, mature jack pine that had a
2 high concentration of hard rot. It wasn't detectable
3 by the cut and skid crews at the time and it wasn't
4 going to be detected at our lumber mill and this caused
5 many problems, so we had to bring in roadside slashers
6 to try to eliminate that hard rot. That's something we
7 haven't done in our operations since the early 1960s
8 and where we were moved out of that area we returned
9 the slashers.

10 As the logging engineer for E.B. Eddy, I
11 am also presently working on various developments;
12 namely, wheeled feller bunchers and, relative to our
13 existing track feller bunchers, smaller machines that
14 will work in particular areas that were not suitable
15 for the large heavy equipment that we are currently
16 using.

17 We are also very interested in the long
18 distance skidding and forwarding concept that Mr.
19 Hopkins has talked about and the clambunk skidders and,
20 in fact, we did try a clambunk several years ago and,
21 as Mr. Hopkins has described, it definitely is a
22 site-specific machine because it did not work out for
23 us because of the silvics of the particular jack pine
24 that we were cutting at the time.

25 As Mr. Johnston has explained and as I

1 have come to the conclusion of this part, the
2 development of harvesting equipment is a continual and
3 ongoing thing and we are always looking for new
4 equipment.

5 Q. Thank you. If I could then have the
6 next overhead up, please.

7 MR. CASSIDY: We are going to move to
8 Section 5 of the evidence, Madam Chair, commencing at
9 page 34 of Exhibit 1121.

10 If I could just have your indulgence.

11 Q. Thank you. Mr. Roll, the next
12 overhead is up and it can be found, Madam Chair, at
13 page 34 of the witness statement in respect to section
14 5.

15 I wonder, Mr. Roll, if you could read
16 that overhead into the record and it's a little longer
17 than the others, so please take your time.

18 MR. ROLL: A.

19 "It is the Industry position that given
20 changing mill and end product
21 demands and the diversity of forest types
22 and site conditions prevalent in the area
23 of the undertaking,
24 (a) flexibility in harvest activity
25 decision making on each management

1 unit is essential and,
2 (b) it is critical that a broad range of
3 cost effective management alternatives
4 for harvesting activities be available to
5 timber managers."

6 Q. All right. Could you summarize the
7 evidence in this section, please?

8 A. Yes. I think first I would like to
9 make it clear that the flexibility that we are talking
10 about here in this point is flexibility within the
11 terms of approved timber management plans, approved
12 FMAs, and the groundrules which are attached to those
13 forest management agreements, any applicable federal or
14 provincial legislation and any of the applicable
15 guides, guidelines, manuals and Code of Practice and so
16 on.

17 Within the scope of those, we require
18 flexibility in areas such as those described in
19 Ministry of the Environment interrogatory No. 2, the
20 response to that.

21 MR. CASSIDY: That can be found in
22 Exhibit 1122 and that is in fact on the first page of
23 that exhibit. MOE No. 2 for this panel, Madam Chair,
24 Mr. Martel.

25 Q. I understand you wish to read part of

1 that?

2 MR. ROLL: A. Well, rather than read it
3 I would rather comment on the points contained.

4 Q. All right.

5 A. I am not interested in just
6 rereading. The response listed the examples of
7 alternatives requiring flexibility and perhaps a little
8 explanation of some of those points is required.

9 The first point talks about some
10 flexibility in terms of species or tree quality
11 harvested and, again, I would refer you back to point
12 No. 2 of this harvest statement in which we talk about
13 market driving the harvesting activities.

14 So we need flexibility within the scope
15 of all of the plans and the forest management
16 agreements and so on to change the kinds of species and
17 tree quality that we harvest.

18 Processing: Here we are talking about,
19 for example, how to process logs in terms of sawlogs.
20 There are some logs -- some species and qualities that
21 are so valuable that you wouldn't want to process them
22 using mechanical means, you wouldn't want to be limited
23 to that. You need the flexibility there to apply
24 manual slashing with power saw perhaps, with extremely
25 well trained people in order to get the best quality

1 logs out of that.

2 Point B talks of harvesting systems.

3 Here we are talking both about the form in which the
4 product is extracted; that's is as shortwood, as
5 tree-length, as full-tree, and I guess that basically
6 depends on what kind of product the mill requires.
7 In the case of Canadian Pacific Forest Products it's
8 8-foot wood that we need delivered to our mill.

9 But harvesting system is also the
10 combinations of equipment that we use in order to
11 extract that product. And we are saying that the
12 flexibility required to change those combinations is
13 based on site-specific information.

14 D is changing the location of the
15 operation due to weather conditions, again within
16 approved areas. I think that is fairly
17 straightforward.

18 E is the choice of specific types of
19 harvesting equipment. We talked a little bit about
20 this in Section 4 of this case study -- or of this
21 witness panel, the harvest panel.

22 F is the time of operation, winter versus
23 summer operations, again within approved areas, but
24 seasons -- the weather changes year to year and we have
25 certainly all experienced times when you get unusual

1 weather conditions and caught in that problem, you are
2 going to want to have the flexibility to move, again
3 within planned areas, but you are going to want the
4 flexibility to move, to go to the appropriate areas.

5 G is varying the rate of harvest, and I
6 think this is fairly straightforward. We have heard
7 some evidence earlier about the effect of a strike.
8 Here we are referring to changing the amount of
9 equipment or the amount of labour in a particular
10 harvesting area depending on what the demands of the
11 mill are.

12 I could add here also - and you have
13 heard some testimony on this already - about the
14 development of new equipment. I think we require the
15 flexibility, we don't want to be limited to the types
16 of equipment we use now. Certainly we require
17 flexibility in the development of new equipment that
18 can do our job better.

19 All of this I think points out the
20 operational reality, the things that we work with
21 day-to-day in our jobs in extracting wood from the
22 forest.

23 We believe that these issues and other
24 issues like them must be taken into account on a site
25 and situation-specific basis and that we must have the

1 flexibility, again within the bounds of that planning
2 process and of the approval process, to apply the
3 appropriate equipment and all these other things that I
4 have talked about.

5 MR. MARTEL: Could I ask a question. Are
6 you asking that the system that exists continues to go,
7 or are you suggesting that there are real strictures on
8 you now in terms of doing these things?

9 MR. ROLL: I would suggest that we have
10 proposed in our terms and conditions a planning process
11 that we think is a little more responsive and would
12 take care of all the various public input concerns and
13 those other things, but would also give us, for
14 example, an amendment process that would be more
15 responsive to some of our needs for flexibility.

16 But we are not talking just about
17 amendment processes or contingency areas or those
18 things, we are talking about the whole planning
19 process, and I believe the planning panel will deal in
20 more detail with that part of it.

21 But within that structure, the kinds of
22 examples I have given you are the kinds of things that
23 we require the flexibility in.

24 MR. MARTEL: And are they missing? I
25 guess what I am trying to get at is: Does MNR at the

1 present time restrict you in terms of - you can choose
2 any one of these - for example, in the selection of
3 equipment that you use?

4 I mean, if you go to the black spruce
5 area, you are using high flotation tires and so on, if
6 you had to change to something there, are you
7 suggesting that the Ministry is not flexible at all, is
8 I guess what I am trying to get at.

9 MR. ROLL: No, I wouldn't suggest that at
10 all, but I would say that it's very important that you
11 hear our concerns. The Board has the power to apply
12 conditions to our harvesting operations and I think
13 it's important that you understand some of the
14 operational realities that we are dealing with.

15 MR. MARTEL: It's the concern then - if I
16 can use the term again - you're concerned about? I
17 mean...

18 MR. CASSIDY: I note redundancy.

19 MR. MARTEL: I guess, what I'm trying to
20 get at really are the restrictions that are imposed on
21 you now that don't allow you the flexibility.

22 Your terms seem to be asking for a good
23 deal - we are listening to what you are saying - I
24 guess I am trying to get at: How restrictive is the
25 Ministry to the Industry at the present time when you

1 list all of these?

2 MR. ROLAND: At the present time I would
3 say that the examples that I have given you, that we
4 have the flexibility at the present time to do those,
5 to make those decisions on site.

6 MR. CASSIDY: Q. And is that with the
7 guidelines and manuals and other things you indicated
8 in place at the present time?

9 MR. ROLL: A. Yes, it is.

10 Q. And your evidence contemplates those
11 being in place?

12 A. Yes, it does.

13 Q. And I guess you wish to refer now to
14 your case study?

15 MR. ROLL: A. Yes, I would. Again back
16 to Exhibit 1100, the case study Tab A for the Canadian
17 Pacific Forest Products case study and I refer to page
18 20, the middle paragraph on page 20, Tab A.

19 In that paragraph there is discussion of
20 sheared wood and the requirements of a stud mill. It
21 demonstrates that for high quality log material you
22 don't want logs that have been cut to length using
23 shears because of the damage that the shear does to the
24 log.

25 Because our new stud mill demanded a

1 quality product we had to apply the kind of equipment
2 that would give us that type of log, and that is one
3 example of the kind of flexibility to apply the
4 appropriate equipment.

5 Also on page 20 at the bottom of that
6 page, the bottom paragraph, we describe the fact that
7 we generally try and place our operations in the spring
8 in areas of drier conditions. This is to ensure
9 access, it's also to ensure that our equipment doesn't
10 get stuck and that we can continue to produce through
11 the -- harvest wood through the spring period. Again,
12 the ability to be able to place our operations where
13 appropriate at the appropriate time is a real
14 necessity.

15 That is further illustrated at page 21,
16 the very next page at the very top where I have
17 described how the operations were moved out of the case
18 study area, despite the fact that the area hadn't been
19 completely harvested, in order to go to another area
20 that was, say, more sensitive to wet weather and we
21 went there during dry summer months at a time when we
22 would minimize the kind of disturbance that we might
23 have on that site.

24 After we were finished harvesting that
25 area, we moved back into the case study area. Again,

1 it's the making the appropriate kind of -- having
2 flexibility to make the appropriate kind of decision.

3 My third example is -- or my fourth
4 example is at pages 30 and 31. On these pages --

5 Q. This is again at pages 30 and 31 of
6 Tab 4A of Exhibit 1100?

7 A. Yes, it is.

8 Q. Mm-hmm.

9 A. In both the slashing discussion -- a
10 discussion on the slashing on page 30 and on 31 as we
11 get into the hauling -- the discussion on wood movement
12 and hauling, I have made mention of our requirement to
13 ensure that our wood doesn't get mixed up, that spruce
14 stays separate from jack pine.

15 Spruce is used in our news mill, it's
16 somewhat a scarce commodity in that we do have to sort
17 it out of our wood supply to ensure enough spruce for
18 our mill. We can't mix it up. We have got to have the
19 flexibility to be able to apply the appropriate kind of
20 equipment to ensure that we can do that type of sorting
21 and this is another example of the kind of operational
22 flexibility we require.

23 Q. All right. Mr. Hopkins, can you
24 assist the Board with evidence from case study 4D in
25 Exhibit 1100?

1 MR. HOPKINS: A. I am going to elaborate
2 on one of Mr. Roll's examples of a situation that
3 requires flexibility and; that is, the need that is
4 caused by weather.

5 In our operations the allocation of
6 summer and winter areas are critical on the Clay Belt
7 operation; in other words, the approved harvest area
8 must support the operation through the open or unfrozen
9 season.

10 Occasionally an extended wet period can
11 result in planned harvest areas becoming too soft to
12 operate even with high flotation equipment. This can
13 happen fairly often particularly in the fall and, to
14 the extent possible, provision is made for this in
15 our -- it's built into our plans.

16 Therefore, we look within the annual work
17 schedule first for an alternative area; however, if
18 there is no alternatives available within the annual
19 work schedule, then areas within the timber management
20 plan are looked at next. Usually, because we do build
21 provision in our plans, we are able to find
22 alternatives under the system; however, occasionally it
23 can happen that we would have to require a major
24 amendment outside the approved timber management plan
25 in order to avoid harvesting, or in order to harvest or

1 continue to harvest and replace these areas that have
2 become unsuitable for harvest at that time because of
3 the extremely wet weather.

4 So I just point this out so the Board can
5 understand that there are, as Bill -- Mr. Roll stated,
6 there are some operational realities that require us to
7 have some flexibility.

8 Q. And Mr. MacKay, in respect of case
9 study 4B in Exhibit 1100, I understand you wish to
10 provide the Board with evidence?

11 MR. MacKAY: A. Actually, Mr. Cassidy, I
12 do not have an example from the case study but I would
13 like to point out two more examples that I have come up
14 with that exhibit the operational realities that Mr.
15 Hopkins and Mr. Roll have spoken about.

16 On one occasion we had a situation where
17 we had extremely low machine availability coupled with
18 a low availability of manpower to operate that
19 equipment, and because of the combination of those two
20 things we had to change our work schedule as we could
21 not cut out an area within a certain period of time.

22 On another occasion recently we had a
23 fire weather index that got up to the extreme and
24 because we do cut a good proportion of our wood
25 mechanically and those feller bunchers are in the high

1 risk category, they were shut down because of the
2 extreme fire weather index, and it got so bad that the
3 cut-and-skid gang were also shut down. And that again
4 led us to not being able to cut out an area within a
5 certain period of time and having to change our
6 schedule again.

7 This is two more examples of operational
8 realities that we face out there every day and we need
9 the flexibility for change.

10 MR. CASSIDY: All right. And if we could
11 then move to Section 6, Madam Chair, of the evidence
12 commencing at page 37.

13 Q. And, Mr. Roll, could you please read
14 that overhead into the record that can be found on page
15 37, and please read that slowly, Mr. Roll.

16 MR. ROLL: A. "It is the Industry's
17 position that the experience gained by
18 the industry over decades of carrying out
19 harvesting activities enables the
20 Industry's timber managers to make
21 informed decisions on timber resource
22 management in site-specific areas."

23 Q. All right. And could you please
24 summarize this section for the benefit of the Board?

25 A. Yes, I can. Madam Chair, Mr. Martel,

1 you have heard many months and years of testimony
2 outlining the databases available to the timber
3 manager. We have to -- to complement this database, we
4 have the advantage of many years of experience of
5 actually carrying out timber management activities in
6 the field and of seeing the results of these
7 activities.

8 The individual experience that we have is
9 compounded by the experiences of our -- those who
10 supervise us, of our peers and of our employees and
11 employees in the sense of the word down to the people
12 who are out in the forest doing the actual work.

13 Q. The camp clerk or camp foreman?

14 A. Exactly. I would like to point out
15 the response to Interrogatory No. 4 from the Ministry
16 of the Environment for Panel 6.

17 MR. CASSIDY: And that can be found in
18 Exhibit 1122, Madam Chair, on the second page of that
19 collection of interrogatories.

20 MR. ROLL: I would like to refer
21 specifically to part (a) of this response and here we
22 discuss how the experience of the timber manager is
23 shared with others, and I would like to point out a
24 couple of portions of this that seem particularly
25 pertinent here.

1 Industry managers do tend to have a high
2 degree of job stability and continuity, we tend to stay
3 in our jobs for quite long periods of time and tend to
4 stay within our working areas for quite long periods of
5 time. Our careers are with a few companies.

6 Also, Industry managers use the
7 organizational structures of those companies to pass on
8 information, to pass information through those
9 structures to other managers -- other timber managers
10 within that organization. This results in our
11 experience being spread around of others learning by
12 our experience.

13 As managers and supervisors we are also
14 involved in reviewing and contributing to the
15 preparation of some of the material that the Ministry
16 of Natural Resources provides. We review guides and
17 guidelines and actually participate in their
18 development. We also contribute, many of us, to the
19 preparation of forest management agreement ground
20 rules.

21 We contribute to and participate in
22 technical sessions of many Industry organizations.
23 They are listed in the response to the interrogatory as
24 the Canadian Pulp and Paper Association, Canadian
25 Institute of Forestry, Ontario Professional Foresters

1 associations, the Forest Engineering Research Institute
2 of Canada - that is also known by FERIC - The Council
3 on Forest Engineering, Forest Products Accident
4 Prevention Association, and there are more. That is
5 not an exhaustive list.

6 From these organizations as well as
7 others and other sources, we have access to trade and
8 professional publications, research publications,
9 papers and proceedings from some of our technical
10 gatherings. We also have available to us of course the
11 material provided in provincial guides, guidelines
12 manuals and so on.

13 We also have both a formal and informal
14 network among companies and it is a strong one wherein
15 Industry people visit one another. When there is a
16 development taking place in an area, Industry managers
17 regularly make arrangements to go over and see what is
18 happening at that particular company. A lot of
19 information gets passed via these types of formal and
20 informal visits.

21 MR. CASSIDY: All right.

22 MR. ROLL: In support of the statement
23 that Industry managers tend to have a high degree of
24 job stability and continuity, I would like to point out
25 that Forests for Tomorrow Interrogatory No. 5 for case

1 study Panel 4.

2 MR. CASSIDY: That can be found on the
3 last page of the Exhibit 1122, Madam chair, Mr. Martel.

4 MR. ROLL: In this particular response to
5 the interrogatory, the forester referred to is a Mr.
6 Murray Ferguson.

7 MR. CASSIDY: Q. Who I understand will
8 be testifying in the renewal panel, Panel 8; is that
9 correct?

10 MR. ROLL: A. Yes, that's right. He did
11 the planning for the access as well and harvest and
12 renewal for the case study area. Mr. Ferguson is still
13 employed in a planning position in the English River
14 Forest in the position of management forester. He is
15 responsible for the timber management planning for that
16 particular FMA.

17 The interrogatory points out that Mr.
18 Ferguson worked in this English River Forest area from
19 1974 and that he was employed in an adjacent management
20 unit during the three summers previous to 1974. I
21 offer that as some evidence to support that we tend to
22 stay in the same areas and in the same general
23 situation for quite a long time.

24 MR. CASSIDY: I understand, Madam Chair,
25 that for the purposes of the record this answer to this

1 interrogatory can also be found in Exhibit 1103 which
2 was filed last week.

3 Q. All right. Thank you, Mr. Roll.

4 Mr. Hopkins, can you assist the Board
5 with evidence from your case study found at Tab 4D of
6 Exhibit 1100 in respect of this section of the
7 evidence?

8 MR. HOPKINS: A. In the context of Mr.
9 Roll's remarks I will describe our situation at the
10 Iroquois Falls Woodlands Division with regard to the
11 Industry experience.

12 Our licence on which the FMA is located
13 has been harvested by us since the early 1980s.
14 Presently most employees have over 20 years of service
15 and are working on our woods operation. In the
16 management group, like the service generally for most
17 management ranges from nine to over 40 years in length.

18 Of that group, there are nine forest
19 technicians and eight foresters which represents half
20 of our staff. This gives us a tremendous data resource
21 and wealth of experience in support and, as can be
22 found in reference 2 in case study D on page 6, there
23 is an indication that there is considerable interaction
24 amongst our group in addition to the formal structure.

25 Mr. Gemmell, who the Board has seen over

1 the last few weeks--

2 Q. And who also will be testifying in the
3 renewal panel, Panel 8.

4 A. --has an intimate appreciation of the
5 Clay Belt sites based on over 16 years experience in
6 both MNR and company perspectives. He is a key figure
7 in the planning and implementation of the renewal
8 effort.

9 Our company provides frequent training
10 and learning opportunities to staff and, in addition,
11 our company encourages and promotes the involvement of
12 all levels in the decision-making processes.
13 Operationally we can see the results of what we do and
14 the nature of our on-the-ground presence on the sites
15 makes us knowledgeable of the environment in which we
16 are carrying out our activities.

17 Q. I understand that you will be showing
18 a photograph later which will illustrate employee
19 participation in developments?

20 A. Yes, I will.

21 Q. Mr. Johnston, if I can turn to you in
22 respect of your case study found at Panel 4C in Exhibit
23 1100. I understand you wish to discuss this matter for
24 the benefit of the Board?

25 MR. JOHNSTON: A. Yes, Mr. Cassidy.

1 Madam Chair, I would like to explain to
2 the Board that at Abitibi-Price a new supervisor
3 usually gets his or her initiation to the company by
4 working on the generation projects or timber cruising
5 during the summer months while they are attaining their
6 formal education. Once they formally enter the
7 workforce they could continue in this field or move to
8 supervising the workforce, and during their careers
9 they rotate to many areas of responsibility.

10 This experience, the exposure to all
11 disciplines, is a prerequisite before advancing to
12 becoming a camp foreman, a superintendent, divisional
13 forester or eventually a woodlands manager. This is
14 important so that he or she will fully understand the
15 relation to planning, access, harvest, regeneration and
16 tending of the forest.

17 Q. And, Mr. Murray, can you assist the
18 Board in respect of case study 4E found in Exhibit
19 1100?

20 MR. MURRAY: A. Yes, the G.W. Martin
21 one. I am not going to have to refer to anything
22 specific in the case study. This is a Crown management
23 unit, as I have mentioned before and, therefore, the
24 management plan was prepared by a Crown management unit
25 forester.

1 The plan in effect at the time of the
2 case study was 1985-1990, and the personnel of Weldwood
3 of Canada, the predecessor company, had been involved
4 with the Ministry in their input to the plan in
5 preparation. The divisional forester at Weldwood has
6 had 27 years experience in the area of the case study.

7 Q. And finally, Mr. MacKay, in respect
8 of case study 4B at Exhibit 1100, can you assist the
9 Board?

10 MR. MacKAY: A. Yes, Mr. Cassidy. I
11 would like to refer the Board once again to Tab B of
12 Exhibit 1100, page 2.

13 Q. All right. Just one second.

14 A. It's the same paragraph I referred to
15 once before under Section 2, the third paragraph down:

16 "This area was selected because it
17 contained a deliberate, well-documented
18 long-term experiment comparing two
19 distinct management systems: aspen
20 overstory maintenance and aspen
21 overstory removal prior to the planting
22 of the jack pine."

23 This is one example of how the Industry
24 will take an experiment such as this and document it
25 well and then use it as a tool in the future to carry

1 out their management activities.

2 If I could, I also have some other
3 examples of how the Industry gains experience,
4 documents it and passes it on to people within - I am
5 speaking from the E.B. Eddy context - within the
6 company.

7 As a logging engineer I am continually
8 sending information out to the woodlands people. That
9 information could be anything from experiments outside
10 the company on relevant situations or of things that I
11 am doing myself within the company, or indeed from
12 districts from one side of the FMA to the other that
13 everyone does not necessarily know about it, and I take
14 it upon myself to distribute that information and make
15 the people aware of what is going on and they do use
16 that information.

17 I can think of at least 10 published
18 reports where E.B. Eddy has been an active and willing
19 participant and these reports deal with everything from
20 planting right through to renewal, and indeed those
21 reports are by people such as FERIC, who was mentioned
22 by Mr. Roll earlier, or the Great Lakes Forestry
23 Research Centre, and those are another tool that the
24 management people use to carry out their activities.

25 Thirdly, E.B. Eddy has a long history of

1 association with many learning institutions across
2 Canada such as the University of New Brunswick, the
3 University of Toronto, the Lakehead University,
4 ***Morris Stanford Flemming College.

5 Q. That is in Peterborough?

6 A. Lindsay, I believe.

7 Q. Close, southern Ontario.

8 A. Somewhere.

9 Q. All right.

10 A. Various students and faculty members
11 have come on our FMA areas to carry out experiments and
12 studies, and we believe that this is a beneficial thing
13 to both them and ourselves as we will use the results
14 from those activities.

15 Personally I use my nine years of
16 experience on this Spanish River FMA to help out the
17 woodlands people any way I can, and that might be in
18 problem solving because of my knowledge of the
19 geographical situation or the stands and species
20 compositions on our areas I can contribute productively
21 because of that.

22 Q. Thank you. I just want to poll the
23 panel here and ask you how long you have been involved
24 in the timber management activities in your particular
25 location.

1 Mr. Roll, how long have you been involved
2 in those activities in the English River Forest?

3 MR. ROLL: A. I've been on the English
4 River Forest for 14 years.

5 Q. Mr. Hopkins, in the Thunder Bay area,
6 Iroquois Falls area. I understand you have two
7 separate experiences you wish to describe to the Board?

8 MR. HOPKINS: A. I have worked for nine
9 year on the Iroquois Falls FMA and prior to that I
10 worked seven years at Thundery Bay.

11 Q. Mr. Johnston, I believe you told us
12 in another panel that you have been involved in the
13 timber management activities in the Thunder Bay area
14 for 39 years; is that correct?

15 MR. JOHNSTON: A. That's correct.

16 Q. Mr. Murray, you told us earlier that
17 you were involved in timber management activities in
18 the Great Lakes/St. Lawrence Forest for 25 years; is
19 that correct, or in the case study?

20 MR. MURRAY: A. In the case study area
21 for 25 years.

22 Q. Mr. MacKay, can you tell us how long
23 you have been involved in timber management activities
24 in the Spanish River Forest?

25 MR. MacKAY: A. Nine years.

1 MR. CASSIDY: Madam Chair, Ms. Swenarchuk
2 has kindly donated or loaned I should say her watch to
3 me since mine broke halfway through this panel;
4 however, it indicates that it is approximately nine
5 minutes to five.

6 We have one other section of the evidence
7 from Mr. Roll to hear from which I do not believe can
8 be done in nine minutes and I would prefer not to break
9 it up as it is the last section and, therefore, I
10 propose that we break from this panel for today if the
11 Board is willing. I can also advise that we are ahead
12 of schedule with respect to tomorrow in my estimate of
13 one day and one hour.

14 I now anticipate that we will be in very
15 good shape to finish by noon hour tomorrow at the
16 latest on this panel and perhaps even earlier.

17 I can advise that the next section of
18 evidence will be dealing with further case study
19 evidence from each of the case study witnesses followed
20 by evidence from Dr. Methven who will, as I indicated
21 earlier, have a computer he wants to program, he wants
22 to run for the benefit of the Board. All of that I
23 believe can be accommodated by, at the latest, noon
24 hour tomorrow, therefore, I would ask that we break.

25 I do have one procedural matter I wish to

1 discuss in respect of the scheduling, however, before
2 we leave the hearing room today.

3 MADAM CHAIR: That's fine, Mr. Cassidy.
4 We will break after your comments.

5 MR. CASSIDY: Madam Chair, this is in
6 relation to the scheduling for the hearing as we march
7 down through the OFIA/OLMA panels.

8 I've had a brief discussion with Ms.
9 Swenarchuk and the other counsel in respect of the
10 estimates for the balance of this panel and it occurs
11 to me -- and I have to indicate I have not had the
12 benefit of hearing from Mr. Hanna in terms of how long,
13 should the Board grant him permission to cross-examine,
14 that he intends to do so, but it would appear likely in
15 the event that you do grant him permission that we will
16 finish the cross-examinations of this panel based on
17 the estimates I've now heard from counsel opposite that
18 we will be finished this panel by Tuesday.

19 That, Madam Chair, is very good news I
20 think for all parties in terms of moving the hearing
21 along; however, we have run into a difficulty with
22 respect to a particular witness, Dean Rod Carrow. The
23 Dean of the Faculty of Forestry at the University of
24 Toronto is scheduled to appear on the next panel.

25 Some time ago, and I am talking months,

1 Dean Kerro made a commitment to be out of the country
2 next week and it is impossible to get him here for next
3 week. On the assumption of timing, which we all try to
4 do, we did not anticipate that would be a problem on
5 the assumption that he can be back in the country and
6 prepared to be here in Thunder Bay next Tuesday, which
7 is when we thought this panel -- or his panel, the next
8 one would commence.

9 As a result, I am requesting that the
10 Board deal with this matter in the following fashion;
11 and that is, that we complete obviously this panel
12 which may, as I indicated, finish on Tuesday, that we
13 then stand down the hearing until the following week
14 when Dr. -- or I'm sorry, Dean Kerro can be present in
15 Thunder Bay.

16 I am advised that he will be arriving
17 back and can be in the country commencing on the 10th
18 by the 10:30 flight on Tuesday of not next week but the
19 following week.

20 MADAM CHAIR: What date is that, Mr.
21 Cassidy?

22 MR. CASSIDY: That would be the 1st of
23 May, Madam Chair, where we are scheduled to return to
24 Thunder Bay at that time. I would ask that we would
25 start on that day at approximately twelve o'clock to

1 give him time to get in from the airport and I can
2 indicate that we have encountered this difficulty as a
3 result of what I am happy to report is our progress to
4 date in terms of timing, but it is an unfortunate
5 situation that unfortunately cannot be resolved in any
6 other fashion.

7 I have spoken to my friends - and I
8 should say my friends present - and I don't believe
9 there was any objection to that and, therefore, we
10 request the indulgence of the Board in respect of that
11 scheduling.

12 If I could just have your indulgence,
13 Madam Chair.

14 ---Discussion off the record

15 MR. CASSIDY: Counsel for MOE has just
16 made a rather interesting suggestion to me which I
17 would have to canvass with the witnesses.

18 If we got into the situation where rather
19 than flying up here for one day next week simply to
20 have cross-examination by one or two parties who are
21 only going to be an hour or two, rather than going to
22 that expense we might - and I would have to canvass
23 this with the witnesses, and perhaps what I can do is
24 advise you in the morning if they are available, we
25 don't run into the situation where one of them is out

1 of the country - have them come back for that portion
2 on May 1st.

3 We could then start the hearing at 8:30
4 on May 1st as anticipated, do this panel on that last
5 little bit and then commence with Panel 7, but perhaps
6 what I can do, if you are amenable to that suggestion,
7 is take the time and speak to the witnesses and advise
8 you in the morning.

9 MADAM CHAIR: That's fine, Mr. Cassidy.
10 We understand your situation with Dean Kerro and we
11 will wait until May 1st to begin Panel 7 and you can
12 sort it out with your panel members about whether we
13 finish Panel 6 next Tuesday or we combine them with
14 Panel 7.

15 MR. CASSIDY: Fine. I must advise I
16 have not spoken to the other counsel other than MOE and
17 it would be appropriate for me to see if that is
18 convenient with them. We can do that now in the course
19 of our discussions on the other matter and we can
20 advise you accordingly in the morning.

21 MADAM CHAIR: All right.

22 MR. CASSIDY: I appreciate your
23 indulgence, Madam Chair.

24 MR. FREIDIN: Madam Chair, if I might
25 just ask so that I can arrange my scheduling, is the

1 Board going to make any ruling or does it anticipate
2 make a ruling today or tomorrow in relation to the
3 request from OFAH; if so, have you any indication from
4 OFAH as to how long they will be cross-examining should
5 leave be granted?

6 MADAM CHAIR: We haven't heard about how
7 long they will be.

8 Ms. Devaul, do you have any more
9 information?

10 MS. DEVAUL: Yes. Dr. Quinney just
11 phoned, half a day to a day for Panel 6.

12 MR. CASSIDY: Well, if I finish by eleven
13 tomorrow, Ms. Swenarchuk has advised me she anticipates
14 being the balance of the day.

15 MS. SWENARCHUK: I expect probably not
16 more than half a day at this point.

17 MR. CASSIDY: Then we could finish Mr.
18 Hanna this week quite easily and probably finish Mr.
19 Freidin perhaps, or at least get a good start on him.

20 MADAM CHAIR: You wanted to know if you
21 were going to have to cross-examine on Thursday, Mr.
22 Freidin?

23 MR. FREIDIN: No. Well, I might not have
24 to if OFAH are going to cross-examine. I guess we were
25 all eagerly waiting the Board's ruling on that.

1 I'm not sure whether you wanted to
2 hear -- whether Mr. Hanna was going to make submissions
3 personally.

4 MADAM CHAIR: We received a letter from
5 Mr. Hanna just before we came back at three o'clock
6 asking for leave to cross-examine and we haven't
7 informed him one way or the other.

8 Do the parties have anything to say about
9 that matter?

10 MR. CASSIDY: I have indicated my
11 concerns earlier today, Madam Chair, in respect of the
12 process that we are going through.

13 I repeat my concern that I think the
14 statement of issue's concept is valid and works both
15 from the perspective of the person who has actually had
16 to do it and the other perspective of the person who
17 has received them and I would encourage the Board to be
18 diligent in enforcing that.

19 Perhaps the only way to enforce it is
20 to -- for a party to realize that they are going to
21 lose the right to cross-examine if it did so. I have
22 some concerns about that occurring given the
23 requirements under the Statutory Powers Procedure Act,
24 and I am not sure how the Board gets out of this in
25 that particular situation, that a party has a right to

1 cross-examine contained in that Act and would be
2 governed in this proceeding -- or govern this
3 proceeding.

4 There is some suggestion that parties are
5 entitled to reasonable rights of cross-examination and
6 I would be interested in hearing from my fellow counsel
7 as to whether or not that would be breached in a
8 situation where a party has been given some opportunity
9 to file and indicate whether or not it is going to
10 cross-examine and has not done so in accordance with
11 time prescriptions which were clearly laid down.

12 I think I am not being particularly
13 helpful in the sense that I am not saying one way or
14 another, but I would remind the Board of that
15 responsibility under the Statutory Powers Procedure Act
16 before they make their decision.

17 MADAM CHAIR: All right. Mr. Martel and
18 I will discuss this now and we will be in touch with
19 Mr. Hanna. We will inform you, Mr. Cassidy, as soon as
20 can.

21 MR. CASSIDY: Thank you.

22 MADAM CHAIR: Thank you very much.

23 ---Whereupon the hearing adjourned at 5:05 p.m., to
24 be reconvened on Wednesday, April 18th, 1990,
commencing at 8:30 a.m.

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